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ABSTRACT

The Emergency School Aid Act (ESAA) was designed to provide local educational agencies with financial assistance to eliminate minority group segregation, to prevent minority group isolation, and to aid children who have been educationally disadvantaged because of isolation. An overview of the programs funded under the ESAA is provided in this document, together with a full history of the appropriations for these programs. The administration and evaluation of the Act are described. The role of the Office for Civil Rights is explained. Testimony from different school districts of the country as to how they are using and profiting from ESAA is also included. Changes in ESAA regulations and procedures are suggested. Also discussed is an amendment proposed by the state of Maine to ensure that Franco-American students will be afforded the same benefits as other minority groups under the Act. Supplemental materials, such as letters, prepared statements, and the texts of regulations relating to the ESAA, are appended to the document. (Author/AM)

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ED156737

PART 4: EMERGENCY SCHOOL AID ACT

HEARINGS

BEFORE THE

SUBCOMMITTEE ON ELEMENTARY, SECONDARY, AND VOCATIONAL EDUCATION

OF THE

COMMITTEE ON EDUCATION AND LABOR
HOUSE OF REPRESENTATIVES

NINETY-FIFTH CONGRESS

FIRST SESSION

ON

H.R. 15

TO EXTEND FOR FIVE YEARS CERTAIN ELEMENTARY, SECONDARY, AND OTHER EDUCATION PROGRAMS

HEARINGS HELD IN WASHINGTON, D.C.
JUNE 14, 15, 16, 1977

Printed for the use of the Committee on Education and Labor
Carl D. Perkins, *Chairman*

U.S. DEPARTMENT OF HEALTH,
EDUCATION & WELFARE
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PART 4: EMERGENCY SCHOOL AID ACT

TUESDAY, JUNE 14, 1977

House of Representatives,
Subcommittee on Elementary, Secondary and
Vocational Education,
Committee on Education and Labor,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:35 a.m., in Room 2175, Rayburn House Office Building, the Hon. Carl D. Perkins presiding.

Members present: Representatives Perkins, Mottl, Le Fante, Weiss, Kildee, Quie and Pressler.

Staff present: John F. Jennings, majority counsel; Christopher T. Cross, minority senior education consultant; Nancy L. Kober, staff assistant.

Chairman Perkins. Today the Subcommittee on Elementary, Secondary, and Vocational Education is resuming its hearings on H.R. 15, a bill to extend for five years certain elementary and secondary education programs that expire next year. The focus of today's hearing will be the Emergency School Aid Act, which was first enacted in Public Law 92-318, and amended in P.L. 93-380 and P.L. 94-482.

The purpose of the Emergency School Aid Act is to provide local educational agencies with financial assistance to meet the special needs incident to the elimination of minority group segregation and discrimination, to encourage the voluntary elimination, reduction, and prevention of minority group isolation, and to aid children in overcoming the educational disadvantages of minority group isolation. In fiscal year 1977 approximately $275 million was appropriated for the eight subprograms under the ESAA legislation.

Today we will be hearing from Dr. George Rhodes, Acting Associate Commissioner, Equal Educational Opportunity Programs, U. S. Office of Education, and Mr. Jesse J. Jordan, Director, Division of Program Operation, Equal Educational Opportunity Program. These gentlemen will give us an overview of the program's operation and administration. We also have with us Mr. David S. Tatel, Director, Office for Civil Rights, who will outline the role of the Office for Civil Rights under ESAA.

Lastly, we will hear from Dr. John W. Evans, Assistant Commissioner, Office of Planning, Budgeting and Evaluation, U.S. Office of

Education, who will testify on what a recent three-year evaluation of the ESAA Basic and Pilot Program components shows about the effectiveness of the program.

STATEMENTS OF DR. GEORGE R. RHODES, JR., ACTING ASSOCIATE COMMISSIONER, EQUAL EDUCATIONAL OPPORTUNITY PROGRAMS, BUREAU OF ELEMENTARY AND SECONDARY EDUCATION, U.S. OFFICE OF EDUCATION; JESSE J. JORDAN, DIRECTOR, DIVISION OF PROGRAM OPERATION, EQUAL EDUCATIONAL OPPORTUNITY PROGRAMS, BUREAU OF ELEMENTARY AND SECONDARY EDUCATION, U.S. OFFICE OF EDUCATION; DAVID S. TATEL, DIRECTOR, OFFICE FOR CIVIL RIGHTS; AND DR. JOHN W. EVANS, ASSISTANT COMMISSIONER, OFFICE OF PLANNING, BUDGETING, AND EVALUATION, U.S. OFFICE OF EDUCATION

Chairman PERKINS. Dr. Rhodes, we will call on you first, as the Acting Associate Commissioner of Equal Educational Opportunity Programs, Bureau of Elementary and Secondary Education.

Without objection, all your prepared statements will be placed in the record.

STATEMENT OF DR. GEORGE R. RHODES, JR., ACTING ASSOCIATE COMMISSIONER, EQUAL EDUCATIONAL OPPORTUNITY PROGRAMS, BUREAU OF ELEMENTARY AND SECONDARY EDUCATION, U.S. OFFICE OF EDUCATION

Dr. RHODES. Mr. Chairman and Members of the Subcommittee:

I appear before you today to give an overview of the Emergency School Aid Act operation since its inception in 1973.

In addition to the activities under the Emergency School Aid Act, we administer a companion act, Title IV of the Civil Rights Act and have administered the Emergency School Aid Program (ESAP) which preceded the Emergency School Aid Act. Table I provides a full history of appropriations for those programs.

In June of 1972 the Emergency School Aid Act (ESAA) was enacted into law. The Act originally authorized eight program categories, three of which were State apportionment programs (Basic grants, Pilot projects, and Nonprofit Organizational grants) and the remaining five (Bilingual Projects, Educational Television, Metropolitan Area Programs, Special Projects and Evaluation) were discretionary programs. Table II gives the four-year allocation of appropriations for the eight categories.

A significant part of our program is the administration of Section 708(a).

Mr. Jordan will go into greater detail on that when he testifies.

We also have some additional amendments which give us authority to fund magnet schools.

Follow-the-child provisions were added by that statute to benefit children previously receiving Title I compensatory services who, as a consequence of desegregation, no longer attend Title I schools.

We have several issues that are now affecting our programs. Federal and State courts have become active in rendering decisions on changes brought by plaintiffs who felt that action or inaction on the part of school boards was denying students equal protection under the laws. We also are having districts that are being required by State agencies to proceed with desegregation.

State Departments of Education have also been increasingly involved. While more attention has been recently directed to districts in the North and West, there remain second generation problems in school districts that had desegrated some years ago. Some of these have been brought to our attention by students and parents.

As you know, the greatest portion of our funds are apportioned under a State formula. The amount appropriated to each State is dependent on the number of minority students in that State as compared to the number in the Nation. If you have a large district, a great deal of that money is gone, whereas, apportionment by the States doesn't take care of all the districts. The reapportionment is not significant enough in many cases.

In the last five years, we have seen reports, particularly the one coming out of the Civil Rights Commission to the President and Congress, entitled, "Statement on Metropolitan School Desegregation." This has significance for our program.

During the stewardship of this particular program we have learned a great deal concerning the kinds of programs that school districts and nonprofit groups have seen to be beneficial.

At the moment, the Department and the Office of Education is looking at the program categories we have and making an assessment of how we will proceed in terms of the reauthorization which comes out.

There is, on our part, a desire to look at trade-offs in terms of whether or not assistance, before we initiate desegregation, is beneficial as compared to assistance that we give after a school district desegregates.

The role of the Office for Civil Rights as to the ESAA regional program is an important one and is carried out by the regional offices of OCR concurrently with the program quality review of applications performed by the regional offices of education.

I would now like to introduce Jesse J. Jordan, Director, Division of Program Operations, EEOP, who will review more specifically the implementation of the program. Following that, we will be glad to answer any questions the subcommittee may have.

[The prepared statement of Dr. Rhodes follows:]

FOR RELEASE UPON DELIVERY

Statement by
Dr. George R. Rhodes, Jr.
Acting Associate Commissioner
Equal Educational Opportunity Programs
Bureau of Elementary and Secondary Education
Before the
Subcommittee on Elementary, Secondary, and Vocational Education
Committee on Education and Labor
U.S. House of Representatives
Tuesday, June 14, 1977
9:30 a.m.

Dr. Rhodes is accompanied by:

William A. Blakey, Deputy Assistant Secretary for Legislation (Education), HEW

Mr. Chairman and Members of the Subcommittee:

I appear before you today to give an overview of the Emergency School Aid Act operation since its inception in 1973. Fiscal Year 1977 will complete five years of obligational authority for desegregation assistance under the Emergency School Aid Act. In that period of time, $1,134,433,000 has been used to provide financial assistance to help school districts and non-profit organizations (1) meet needs incident to the elimination of minority group segregation and discrimination among faculty and students in elementary and secondary schools and (2) to encourage the voluntary elimination, reduction, or prevention or minority group isolation in elementary and secondary schools with substantial proportions of minority group students and (3) to aid school children in overcoming the educational disadvantages of minority group isolation. It has been an extremely busy five years.

In addition to the activities under the Emergency School Aid Act, we have a longer history of funding related activities under Title IV of the Civil Rights Act and the Emergency School Aid Program (ESAP) which preceded the Emergency School Aid Act. Table I provides a full history of appropriations for those programs.

I would like at this time to give a review of the Emergency School Aid Act activities since 1972. In June of 1972 the Emergency School Aid Act (ESAA) was enacted into law. The Act originally authorized eight program categories, three of which were State apportionment programs (Basic grants, Pilot projects, and Nonprofit Organization grants) and the remaining five (Bilingual Projects, Educational Television, Metropolitan Area Programs, Special Projects and Evaluation) were discretionary programs. Table II gives the four year allocation of appropriations for the eight categories. The 5% reservation from the annual appropriations for Metropolitan Area Projects was eliminated in August, 1974. Since the time of that deletion and pursuant to statute and regulation, 87% of the annual appropriation has been reserved for the State apportionment programs - Basic Grants 64%, Pilot Projects 15%, and Nonprofit Organization grants 8%. The remainder of the annual ESAA appropriation is received as follows for the discretionary programs: Bilingual Projects 4%, Educational Television 3%, Special Projects 5%, and Evaluation 1%. Table III provides a breakout by State and program for the above categories for Fiscal Year 1976.

Within these categories Table IV provides a listing with percentages by type of authorized activity for Fiscal Years 1974 and 1975. The number of awards and amount of money by State for these activities is provided in Table V. Table VI gives the number of disapproved applications and levels of request to complete the picture of ESAA activities over the four year period.

Additional sums have been appropriated in FY 75, FY 76, and FY 77 for activities under the Special Projects authority, (Section 708(a)). The Education Amendments of 1976 (P.L. 94-482) added authority to fund magnet schools, pairing of schools with business and universities, and neutral site planning. Follow-the-child provisions were also added by that statute to benefit children previously receiving Title I compensatory services who, as a consequence of desegregation, no longer attend Title I schools. Seven and one-half million dollars was appropriated for the first three activities in FY 77, and $20 million has been requested for all four activities in FY 78.

I would now like to point out some of the issues that are affecting desegregation and the administration of this program. Federal and State courts have increasingly become active in rendering decisions on charges brought by plaintiffs who felt that action or inaction on the part of school boards were denying students equal protection of the laws. In addition to increases in court orders, voluntary action by some school boards has also increased. Unlike the late sixties and early seventies when courts declared entire States de jure segregated, more recent action in the north and west has been district-by-district. State departments of education have also been increasingly charged with acts of de jure segregation and have orders from the court to submit plans to the court independent of plans from the school districts to remedy the situation the courts found they had jointly caused.

While more attention has been recently directed to districts in the north and west, there remain second generation problems in school districts that had desegregated some years ago. These include concerns for pupil placement, pupil acceptance, too great a transportation burden on black students, discriminatory practices in ability grouping assignments, overinclusion of minorities in special classes for the educable mentally retarded, and other matters related to discriminatory treatment of minority students and staff. These second generation problems continue to need attention and financial support to help resolve them.

As you know, most of the funds appropriated for the Emergency School Aid Act are apportioned to States under a statutory formula. The amount apportioned to each State is dependent on the number of minority students between ages 5 and 17 in those States as compared with the number of minority students of the same age group in the nation. This has given rise to some problems in certain States, particularly, where there is one or more large districts with heavy desegregation needs but only a relatively small amount for that State in the table due to the relative number of minority students in that State. This has the potential for excluding most of the smaller districts in the State. Examples of States of where this is so are Massachusetts, Missouri, Minnesota, Wisconsin, and Washington.

In the last five years too, we have seen a number of reports issued by the United States Civil Rights Commission to the President and Congress. One of their most recent reports entitled "Statement on Metropolitan School Desegregation" relates to the need for consideration of metropolitanization of school districts in order to achieve desegregation in a number of areas of our country where a large urban district surrounded by a number of suburban districts seems unable through intradistrict efforts to achieve the level of desegregation sought.

While there is authority under existing law, section 709, for districts to apply for funds to develop interdistrict remedies, the nature of the authority and the history of appropriations has resulted in only very limited activities in this area.

The role of the Office for Civil Rights in connection with the ESAA State apportionment program is an important one and is carried out by the regional offices of OCR concurrently with the program quality review of applications performed by the regional offices of education.

I would now like to introduce Jesse J. Jordan, Director, Division of Program Operations, EEOP, who will review more specifically the implementation of the program. Following that, we will be glad to answer any questions the Subcommittee may have.

TABLE I
U.S. Office of Education
Bureau of Elementary and Secondary Education
Equal Educational Opportunity Programs

Obligational Authority for Desegregation Assistance
Fiscal Years 1965-1977

Fiscal Year	Title IV*	ESAP**	ESAA***	Total
1965	$ 8,000,000	$ -	$	$ 8,000,000
1966	8,000,000	-		8,000,000
1967	8,028,000	-		8,028,000
1968	10,000,000	-		10,000,000
1969	10,750,000	-		10,750,000
1970	19,036,000	-		19,036,000
1971	19,218,000	75,000,000		94,218,000
1972	19,672,000	75,000,000		94,672,000
1973	21,700,000	21,000,000	227,940,000	270,640,000
1974	21,700,000	-	236,493,000	258,193,000
1975	26,700,000	-	215,000,000	241,700,000
1976	26,700,000	-	245,000,000	271,700,000
1977	34,700,000	-	240,000,000	274,700,000
TOTAL	$ 234,200,000	$171,000,000	$1,134,433,000	$1,539,637,000

* TITLE IV CIVIL RIGHTS ACT - 1964: Technical assistance awards are made to: (1) general desegregation assistance centers; (2) State educational agencies; (3) local educational agencies; and (4) universities for training institutes.

** EMERGENCY SCHOOL ASSISTANCE PROGRAM: was to meet special needs incident to the elimination of racial segregation and discrimination among students and faculty in elementary and secondary schools by contributing to the costs of new or expanded activities - designed to achieve successful desegregation and the elimination of all forms of discrimination in the schools on the basis of students or faculty being members of a minority group.

*** EMERGENCY SCHOOL AID: is to provide financial assistance (1) to meet needs incident to the elimination of minority group segregation and discrimination among faculty and students in elementary and secondary schools; (2) to encourage the voluntary elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority group students; and (3) to aid school children in overcoming the educational disadvantages of minority group isolation.

TABLE II

Four-Year ESAA Appropriation (A), and Obligation Levels (O)
(in millions of dollars)

Category	FY 1973 A	FY 1973 O	FY 1974 A	FY 1974 O	FY 1975 A	FY 1975 O	FY 1976 A	FY 1976 O	Total A	Total O
Basic	$134.5	$117.7	$144.9	$155.8*	$133.5	$135.4***	$137.6	$140.0***	$552.5	$548.9
Pilot	34.2	21.9	37.3	27.1	33.9	33.9	32.2	31.9	137.6	114.8
NPO	18.2	20.1*	19.9	19.9	18.1	18.1	17.2	17.2	73.4	75.3
Bilingual	9.1	8.9	10.0	10.0	9.1	9.1	8.6	9.1***	36.8	37.1
Metro	11.4	5.4	0	0	0	0	0	0	11.4	5.4
ETV	11.4	11.4**	7.5	6.9	6.8	7.0***	6.6	8.5	32.1	34.6
Special Projects	6.8	6.8**	12.4	11.7	11.3	8.4	43.8	36.2	74.3	63.1
Evaluation	2.3	2.3	2.5	2.5	2.3	2.3	2.2	2.2	9.3	9.3
Total	$227.9	$196.3	$236.5	$233.9	$215.0	$215.0	$248.0	$245.1	$927.4	$888.5

* Amount in excess of appropriation due to reallocation of State apportionment funds.

** Allocations changed by regulation to increase amount available for ETV.

*** Amount in excess of appropriation due to utilization of discretionary program funds under section 708(a).

TABLE III

TOTAL ESAA FY 1976 OBLIGATION BY STATE AND PROGRAM CATEGORY

STATE	Basic	Pilot	NPO	Bilingual	ETV	Special Projects	Evaluation	No. of Awards	Total
1. Alabama	$ 4,550,737	1,189,390	$ 509,963	-	-	$ 460,142	-	67	$ 6,710,232
2. Alaska	163,722	-	46,001	-	-	-	-	2	209,723
3. Arizona	1,111,080	433,336	276,073	-	-	-	-	6	1,820,489
4. Arkansas	1,770,569	440,862	307,731	-	-	100,000	-	22	2,619,162
5. California	10,730,169	3,306,022	2,288,198	$ 548,450	$ 1,165,870	816,088	$ 2,150,000	76	21,380,797
6. Colorado	1,587,627	355,066	179,838	717,982	-	175,756	-	17	3,015,227
7. Connecticut	1,110,880	326,166	144,356	-	250,000	411,461	-	13	2,252,471
8. Delaware	449,790	118,788	31,866	-	-	-	-	4	600,444
9. D. C.	2,003,120	386,188	252,377	-	-	395,000	-	5	3,036,685
10. Florida	6,697,220	1,461,775	717,908	2,083,863	250,000	278,988	-	28	11,489,754
11. Georgia	5,672,656	1,306,476	869,952	-	-	187,996	-	68	8,036,876
12. Hawaii	1,736,730	408,210	220,826	407,832	-	-	-	10	2,773,598
13. Idaho	191,067	-	22,966	-	-	-	-	2	214,033
14. Illinois	3,269,616	380,618	339,636	-	-	214,650	-	28	4,204,520
15. Indiana	1,495,361	-	231,722	-	-	-	-	6	1,726,383
16. Iowa	136,409	-	32,508	-	-	-	-	2	168,917
17. Kansas	720,100	-	63,658	-	-	-	-	4	783,758
18. Kentucky	1,081,998	288,678	134,628	-	-	1,585,143	-	13	3,080,244
19. Louisiana	5,443,729	509,087	632,126	521,809	-	187,620	-	48	7,266,269
20. Maine	-	-	-	-	-	-	-	-	-
21. Maryland	3,077,113	-	381,263	-	-	269,788	-	12	3,733,164
22. Massachusetts	1,138,698	230,979	136,167	339,627	1,250,000	5,325,967	-	12	8,421,438
23. Michigan	4,840,558	1,339,871	378,842	-	-	6,884,809	-	24	13,444,080
24. Minnesota	457,848	-	38,529	-	-	80,000	-	4	585,377
25. Mississippi	4,232,083	1,131,386	489,206	-	-	-	-	28	5,853,633
26. Missouri	2,380,635	626,036	269,390	-	-	3,516,779	-	14	6,730,842
27. Montana	261,391	33,365	28,625	-	-	-	-	7	323,381
28. Nebraska	343,362	75,088	41,060	-	-	708,575	-	6	1,168,579
29. Nevada	169,526	-	36,962	-	-	-	-	2	206,488
30. New Hampshire	-	-	-	-	-	-	-	-	-
31. New Jersey	3,331,938	1,273,695	361,326	-	-	100,000	-	17	5,066,959
32. New Mexico	2,110,208	471,697	252,342	-	-	100,000	-	35	2,934,247
33. New York	13,981,408	3,870,066	1,671,918	1,444,568	2,300,000	3,295,182	-	45	26,563,142
34. North Carolina	5,655,851	1,696,378	645,677	-	-	-	-	29	7,990,914
35. North Dakota	158,763	-	18,718	-	-	-	-	4	177,481
36. Ohio	5,031,310	673,911	336,723	-	-	435,711	-	14	6,477,655
37. Oklahoma	1,278,448	381,802	166,157	-	-	100,000	-	33	1,926,407
38. Oregon	386,014	-	46,160	-	-	-	-	2	432,174
39. Pennsylvania	3,217,077	1,076,852	565,868	-	-	91,100	-	18	4,950,897
40. Rhode Island	-	-	-	-	-	-	-	-	-
41. South Carolina	6,206,162	1,073,976	463,970	-	-	289,144	-	30	8,033,252
42. South Dakota	267,240	88,266	28,686	-	-	-	-	6	384,192
43. Tennessee	2,812,150	669,593	339,637	-	-	-	-	18	3,821,380
44. Texas	15,346,374	3,636,626	1,764,826	2,963,630	-	3,739,082	-	140	27,550,315
45. Utah	374,558	75,200	61,335	-	-	234,348	-	7	745,441
46. Vermont	-	-	-	-	-	-	-	-	-
47. Virginia	6,735,189	1,081,898	667,394	-	250,000	47,000	-	40	8,781,481
48. Washington	1,212,970	259,927	109,634	-	-	-	-	7	1,582,531
49. West Virginia	368,807	-	-	-	-	38,309	-	3	407,116
50. Wisconsin	856,093	131,123	-	-	-	3,409,724	-	3	4,396,940
51. Wyoming	152,391	42,182	17,966	-	-	-	-	7	212,539
52. American Samoa	-	-	-	-	-	340,503	-	1	340,503
53. Guam	-	-	-	-	-	385,858	-	1	385,858
54. Puerto Rico	-	-	-	-	-	731,164	-	1	731,164
55. Trust Territory	-	-	-	-	-	287,835	-	1	287,835
56. Virgin Islands	-	-	-	-	-	625,310	-	1	625,310
TOTAL	140,032,618 (1)	31,920,088 (2)	17,197,362 (3)	9,168,630 (4)	5,465,870 (5)	36,131,990 (6)	2,150,000	977	245,066,354 (7)

(1) Includes $4,083,095 in discretionary program funds awarded under section 708(a) as special programs and projects in the Basic Grant category. Does not include $1,547,061 held in contingency due to Cincinnati court suit and $103,416 in unobligated funds to be returned to the U.S. Treasury.

(2) Includes $171,872 in discretionary program funds awarded under section 708(a) as special programs and projects in the Pilot Projects category ($88,046 of this amount used for an FY 1975 Pilot Project funding obligation). Does not include $337,340 held in contingency due to Cincinnati court suit and $164,444 in unobligated funds to be returned to the U.S. Treasury.

(3) Does not include $2,658 in unobligated NPO Grant funds to be returned to the Treasury.

(4) Includes $548,450 in discretionary program funds awarded under section 708(a) as special programs and projects in the Bilingual category.

(5) Includes $2,015,870 in discretionary program funds awarded under section 708(a) as special programs and projects in the ETV category.

(6) Does not include $6,819,287 in discretionary program funds awarded under section 708(a) as special programs and projects in other ESAA categories and $778,723 in unobligated discretionary funds to be returned to the Treasury.

(7) Does not include a total of $1,884,401 held in contingency due to Cincinnati court suit and a total of $1,049,241 in unobligated ESAA funds to be returned to the Treasury

TABLE IV

	Authorized Activity	Basic Grants FY 1974	Basic Grants FY 1975	Pilot Projects FY 1974	Pilot Projects FY 1975
1.	Special Remedial Services	71.4%	81.3%	14.1%	18.3%
2.	Inservice Staff Training	38.9%	52.0%	13.4%	8.5%
3.	Guidance & Counseling Services	39.2%	44.5%	10.9%	6.7%
4.	Curriculum Development	45.0%	37.9%	9.9%	7.3%
5.	Career Educational/Shared Facilities	13.8%	13.1%	7.0%	4.8%
6.	Innovative Interracial Activities	54.0%	53.0%	6.3%	3.6%
7.	Community Activities	54.3%	54.8%	2.1%	2.4%
8.	Administrative & Auxiliary Service	48.2%	49.0%	5.6%	4.8%
9.	Planning & Evaluation	37.7%	36.9%	6.3%	6.7%
10.	Facility Repair	4.9%	1.5%	0.7%	0.6%

TABLE V

FOUR-YEAR CUMULATIVE STATE/REGIONAL FUNDING SUMMARY OF TOTAL ESAA OBLIGATIONS BY PROGRAM CATEGORY: FISCAL YEARS 1973-1974-1975-1976

	State/Region	Amount	No. of Awards
Region I (Boston)	1. Connecticut	$ 9,206,182	51
	2. Maine	249,402	1
	3. Massachusetts	25,220,364	36
	4. New Hampshire	-	-
	5. Rhode Island	3,032,162	10
	6. Vermont	-	-
	Region I. Total	37,708,110	98
Region II (NYC)	7. New York	97,641,237	160
	8. New Jersey	18,239,279	76
	9. Puerto Rico	3,645,602	4
	10. Virgin Islands	3,631,894	6
	Region II. Total	123,158,012	242
Region III (Phil)	11. Delaware	2,382,933	26
	12. D. C.	12,588,287	16
	13. Maryland	12,853,471	38
	14. Pennsylvania	20,212,324	46
	15. Virginia	31,035,181	187
	16. West Virginia	1,347,194	16
	Region III. Total	80,419,390	345
Region IV (Atlanta)	17. Alabama	32,301,762	176
	18. Florida	47,097,889	122
	19. Georgia	37,305,089	202
	20. Kentucky	10,135,691	31
	21. Mississippi	21,321,953	110
	22. North Carolina	35,965,872	162
	23. South Carolina	27,496,242	163
	24. Tennessee	18,240,163	68
	Region IV. Total	229,864,661	1,032
Region V (Chicago)	25. Illinois	25,196,549	96
	26. Indiana	6,742,434	13
	27. Michigan	28,307,990	61
	28. Minnesota	3,436,851	12
	29. Ohio	11,424,513	40
	30. Wisconsin	6,731,927	10
	Region V. Total	81,880,264	242
Region VI (Dallas)	31. Arkansas	$ 14,293,743	140
	32. Louisiana	32,422,578	212
	33. New Mexico	11,068,208	119
	34. Oklahoma	10,195,905	122
	35. Texas	103,651,939	384
	Region VI. Total	171,632,373	1,177
Region VII (K.C.)	36. Iowa	913,319	8
	37. Kansas	3,627,501	36
	38. Missouri	11,060,457	43
	39. Nebraska	1,275,381	8
	Region VII. Total	16,878,658	95
Region VIII (Denver)	40. Colorado	9,703,515	69
	41. Montana	1,282,054	29
	42. North Dakota	642,049	15
	43. South Dakota	1,436,572	22
	44. Utah	2,009,442	21
	45. Wyoming	556,266	16
	Region VIII. Total	15,629,898	171
Region IX (S.F.)	46. Arizona	6,642,814	24
	47. California	106,597,271*	248
	48. Hawaii	3,130,236	25
	49. Nevada	1,255,348	7
	50. Amer. Samoa	885,149	2
	51. Trust Territories	1,078,739	4
	52. Guam	2,441,321	4
	53. Wake Island		
	Region IX. Total	122,030,878	314
Region X (Seattle)	54. Alaska	677,364	9
	55. Idaho	763,430	8
	56. Oregon	1,904,414	10
	57. Washington	6,010,266	33
	Region X. Total	9,355,474	60
	National Grand Total	$688,537,918*	3,796

* Does not include $997,934 in Evaluation funds allocated from FY 1973 supplemental appropriation funds.

TABLE VI

Disapproved Applications	Number of LEAs			Amount Requested (in millions of dollars)		
(LEA Applications: Basic, Pilot, Bilingual)	FY 73 (1,500)*	FY 74 (1,600)*	FY 75 (984)	FY 73	FY 74	FY 75
Overall LEA plan not eligible	44	68	27	$ 6.3	$37.9	$10.7
LEA did not meet specific eligibility limitations	31	26	14	24.2	24.6	5.6
Low educational qualty of application	63	146	57	18.4	87.6	22.7
Low need for assistance	19	12	20	3.4	3.5	8.0
Total	157	252	118	$52.3	$153.6	$47.0

*Approximate Number

Mr. MOTTL. May I interrupt before Mr. Jordan proceeds? May I just ask for my own edification, I have seen a lot of publicity as to the Byrd amendment and new plans by HEW to try to circumvent the Byrd amendment. In the last session of Congress the Byrd amendment was adopted that no funds were to be used for busing other than to the nearest school. Is this so, Dr. Rhodes?

Dr. RHODES. I would like to defer this question concerning the Byrd amendment to Mr. Tatel.

Mr. TATEL. Congressman, the origins of the Byrd amendment issue which you refer to in the press, stem from a request from a Senator to Secretary Califano concerning his interpretation of the amendment. For quite awhile there was considerable debate as to whether the word "nearest" in the amendment was to be applied before or after a school district had adopted pairing or clustering for purposes of eliminating segregated conditions.

The Secretary wrote to the Attorney General and indicated his belief was that the amendment should be interpreted in such a way that permitted the Department to require a district to pair and cluster. The Attorney General has supported that interpretation as a literal interpreation of the statute and which minimizes constitutional questions which might be raised about it. This interpretation really doesn't significantly expand HEW's authority.

The "nearest" school rule still applies after clustering and pairing. The extent to which the Department can require the elimination of segregated conditions is quite limited. It is also limited by court imposed rules regarding busing and statutory rules as to the use of busing.

Mr. Mottl. Do you think Mr. Califano's and Mr. Bell's interpretation was the intent of Congress?

Mr. Tatel. They concluded that some meaning had to be given to the phrase where the appropriate course or courses of instruction were available. They reviewed the legislative history and found it didn't resolve the very narrow issue. The issue is whether pairing or clustering could be required prior to applying the Byrd amendment.

Mr. Mottl. So you are saying Congress had better clear up the Byrd amendment so you can——

Mr. Tatel. To the extent the Attorney General's opinion was based on Congress' intent but also it was necessary to minimize constitutional issues which the Byrd amendment might raise.

Mr. Mottl. Why not take it to court? He has a right to give an opinion as our Attorney for the country, but evidently this needs clarification——

Mr. Tatel. Well, I can't speak for the Attorney General.

Mr. Mottl. —by the Congress.

Mr. Tatel. He was not asked specifically to give an opinion on its constitutionality and I don't think he would have the power.

Mr. Mottl. What Mr. Califano and Mr. Bell are now saying in their interpretation of the Byrd amendment is that by either pairing or clustering, dividing up the neighborhood school from grade 1 through 3 and taking another school at a further district, making that 4 to 6, HEW would be able to circumvent the language of the Byrd amendment so you could use Federal funds.

Mr. Jordan. That decision would have no effect on the use of Federal funds as to the Emergency School Aid Act.

Mr. Tatel. Either under the Emergency School Aid Act or under any other legislation I believe no Federal funds could be used at all for the transportation of students. The Byrd amendment relates only to the question of whether or not a school district has adopted a plan under Title VI to eliminate past discrimination and, as you say, what the new interpretation permits, it permits HEW to use precisely the same techniques pairing and clustering, which the courts have used to desegregate illegally segregated systems and which Congress authorized.

Mr. Quie. Will the gentleman yield?

Mr. Mottl. Certainly.

Mr. Quie. Under the interpretation of Secretary Califano, if the pairing was between two schools on opposite ends of a city like in Norfolk, then the child would have a number of schools, possibly closer to him than the school he was assigned to under the pairing. Under the interpretation, how would that work out?

Mr. Tatel. The nearest school with the appropriate grade level would be the unpaired school. That is the interpretation—we have not yet, by the way, had an opportunity to examine closely how the new interpretation will apply, but we have thought about that issue and it is our feeling at this point, that the nearest school in the situation you suggest would be the unpaired one.

Mr. Quie. In that case, it couldn't make any difference whether it was before or after the pairing. However, if the pairing was between two contiguous school areas, it would make a difference.

Mr. Tatel. That's right.

Chairman **Perkins**. Let us go ahead and hear the rest of the panel.

Mr. Jordan.

STATEMENT OF JESSE J. JORDAN, DIRECTOR, DIVISION OF PROGRAM OPERATION, EQUAL EDUCATIONAL OPPORTUNITY PROGRAMS, BUREAU OF ELEMENTARY AND SECONDARY EDUCATION, U.S. OFFICE OF EDUCATION

Mr. **Jordan**. Mr. Chairman and Members of the Subcommittee: I appear before you to give a brief description of the administration of the Emergency School Aid Act (ESAA). The processing of applications began with technical assistance meetings held with prospective clients during November 1976. Concurrent with the OCR eligibility and compliance review the Office of Education processes the application for need and quality of the proposal. The quality of a proposal is scored on the recommendations of a non-Federal panel composed of three persons with expertise in school desegregation using criteria prepared for ESAA and published in 45 CFR 185.14, 185.24, 185.54, and 185.64. The district's need and the comprehensiveness of the district's plan to reduce minority group isolation is measured by the number and percentage of minority group children in isolated situations. Points assigned for need, comprehensiveness, and quality form the composite score of each application.

Funds for the basic, pilot, and nonprofit organization programs are apportioned to States on the basis of each State's minority enrollment. Program funds are awarded to districts according to their ranking until each State's entitlement is expended. Thus, districts compete only with other ESAA eligible districts within their State and not with eligible districts nationwide. The procedure for bilingual projects, childrens television and other special projects is the same except the competition is nationwide.

In addition to the State apportionment program and the other national discretionary programs, ESAA contains authority to fund special projects. These funds are used for assisting districts with recent court orders and unusually severe problems which cannot be covered by the State apportionment. It is under this provision, for example, that Los Angeles will be seeking ESAA support this year. The Education Amendments of 1976 added a new provision authorizing an additional $50 million for these purposes in FY 1978. It is anticipated that an overall figure of $50,750,000 will be utilized for special projects in FY 1978.

A complete program administrative manual is also submitted to the subcommittee. This manual gives a detailed step-by-step procedure for the processing of applications. (See Appendix 5A.) We will be glad to answer any questions the subcommittee may have.

Chairman **Perkins**. Dr. Tatel, Director of the Office for Civil Rights.

Your prepared statement will be inserted in the record. You may proceed.

STATEMENT OF MR. DAVID S. TATEL, DIRECTOR, OFFICE FOR CIVIL RIGHTS

Mr. TATEL. Unless persons with JD's are now referred to as "Dr.", I am just a Mister.

I will briefly summarize my statement by explaining our involvement comes in essentially two stages. First, we are charged with determining whether an applicant has an eligible plan under the ESAA statute. In that regard, we require an applicant to come forward with a qualifying plan which can be a court ordered desegregation plan, a plan for desegregation approved under Title III of the Civil Rights Act of 1964, or any of a varied kind of plans.

Once an applicant is determined to have a qualifying plan, we then turn to the question of civil rights eligibility.

In that regard, we are also guided by the statute which is precise regarding civil rights eligibility of applicants. In fact, the statute states that no applicant which has committed any one of four basic civil rights violations since the enactment of the ESAA statute in '72, will be eligible for assistance.

These violations include: The transfer of property to a segregated private school; discrimination in the hiring, promotion, demotion or assignment of minority teachers; third, a variety of in-school problems; and, fourth, other forms of discrimination against minority students in the system.

If any one of those four conditions have occurred since the passage of the statute, the school district is advised of its civil rights ineligibility. The district has a right to ask for a show cause meeting at which time it can rebut the facts and conclusions reached by the Office for Civil Rights in determining an applicant's compliance status.

The show cause hearing is an informal conference; it is not on the record. Counsel is usually present. A decision is rendered shortly thereafter.

A district also has an option, whether or not it has sought a show cause hearing, to seek a waiver by the Secretary. Here again the statute is very specific as to conditions under which waivers can be granted. First, the Office for Civil Rights does the work, but only the Secretary can approve a waiver.

Second, no waiver can be granted unless the condition which led to the ineligibility has "ceased to exist." The Secretary is not empowered to excuse a violation. He must satisfy himself that the violation, whether it is discrimination against teachers or segregation of minority students, has been eliminated and will not reoccur.

The courts have required the Department to adhere to this requirement strictly.

The case of *Kelsey* vs. *Weinberger* the former Secretary, is discussed in my prepared statement. The U.S. Court of Appeals for the District of Columbia ruled the statute meant what it said and that waivers can only be granted when conditions leading to the ineligibility have been eliminated.

We receive about 800 applications a year. To give you an example as to the extent civil rights violations play a role, I believe we issued 143 letters of ineligibility during last year's funding cycle; 27

involved plan violations, 116 involved civil rights violations; subsequently 51 show cause hearings were held resulting in 25 revocations. There were 86 requests for secretarial waivers and 84 were granted.

This year, as of last week, we received 225 draft letters of ineligibility, from our regional offices; 49 have been withdrawn either as a result of headquarters action or a show-cause hearing. We expect an additional 50 or so show cause hearings and requests for some 120 to 140 secretarial waivers.

I would be glad to answer questions.

[The prepared statement of Mr. Tatel follows:]

STATEMENT BY

DAVID S. TATEL

DIRECTOR, OFFICE FOR CIVIL RIGHTS

BEFORE THE

SUBCOMMITTEE ON ELEMENTARY, SECONDARY AND

VOCATIONAL EDUCATION

COMMITTEE ON EDUCATION AND LABOR

UNITED STATES HOUSE OF REPRESENTATIVES

Tuesday, June 14, 1977

Mr. Chairman and Members of the Subcommittee:

I appreciate the opportunity to discuss with you the role of the Office for Civil Rights under the Emergency School Aid Act (ESAA). The statute authorizes Federal financial assistance to meet the special needs incident to the elimination of minority group segregation and discrimination, to encourage the voluntary elimination, reduction or prevention of minority group isolation and to help elementary and secondary school children overcome the educational disadvantages of minority group isolation. The majority of assistance under the statute is made available to local educational agencies ("LEA's") and to public and nonprofit private organizations ("NPO's") for a variety of activities, including instructional and remedial services, additional staff, teacher training, student services and development of curricula and instructional methods.

Congress appropriated $248 million for ESAA funding for the 1976-77 school year and the Office of Education, which administers the program, awarded 977 project grants. For the 1977-78 school term, approximately $260 million will be available for grants.

While the ESAA program is administered by the Office of Education, the Office for Civil Rights provides assistance in reviewing ESAA applications for plan eligibility and civil rights compliance. To be eligible for ESAA assistance, an applicant must have a qualifying plan for desegregation or for the reduction, prevention or elimination of racial isolation, or a plan to establish or maintain one or more integrated schools. The Office for Civil Rights examines each applicant's plan for compliance with this provision of the Act and the implementing regulations. Our second task is to determine whether applicants meet the civil rights-related eligibility requirements also set forth in the statute and regulations. During the most recent funding year, the Office for Civil Rights processed approximately 1,400 applications.

Plan Eligibility

The requirements relating to plan eligibility are set forth in the statute (Public Law 92-318) at section 706(a)(1). Under the statutory provisions, eligible ESAA plans include:

(1) Court ordered - an LEA may apply for assistance if it is implementing a plan ordered by a court (or state agency or official) which requires the desegregation of minority group segregated children or faculty or otherwise requires the reduction or elimination of minority group isolation.

(2) Title VI - an LEA may apply for assistance if it is implementing a plan approved under Title VI of the Civil Rights Act of 1964 for the desegregation of minority group segregated children or faculty.

(3) Nonrequired plan - an LEA may apply for assistance if it is implementing or will adopt and implement (if assistance is made available), a nonrequired plan.

Eligible nonrequired plans include a plan for the complete elimination of minority group isolation; a plan to eliminate or reduce minority group isolation in one or more minority group isolated schools or to reduce the total number of minority group children enrolled in minority group isolated schools; a plan to prevent minority group isolation; or a plan to enroll and educate at least 25 children who would not otherwise be eligible for enrollment, because of nonresidence in the schools of the applicant, if their enrollment results in the elimination or reduction of minority group isolation.

(4) Integrated School Project - if more than 50 percent of the children enrolled in the schools of an LEA are minority group children, the LEA may apply for basic grant assistance to establish or maintain one or more integrated schools if the LEA has also agreed to apply for an equal amount of "pilot grant" assistance.

Civil Rights Compliance Eligibility

The statute also provides that a district is ineligible for assistance if, after June 23, 1972 (the date of the statute's enactment), the district has committed any one of four civil rights violations.. First, section 706(d)(1)(A) prohibits the transfer of property to segregated nonpublic schools. It states that no applicant shall have:

> transferred (directly or indirectly by gift,

> lease, loan, sale, or other means) real or personal property to, or made any services available to, any transferee which it knew or reasonably should have known to be a nonpublic school or school system (or any organization controlling, or intending to establish, such a school or school system) without prior determination that such nonpublic school or school system (i) is not operated on a racially segregated basis as an alternative for children seeking to avoid attendance in desegregated public schools, and (ii) does not otherwise practice, or permit to be practiced, discrimination on the basis of race, color, or national origin in the operation of any school activity;

Under the implementing regulations, a school district is required to obtain certain information regarding a nonpublic school or school system's announced policies as to admissions, educational and scholarship programs, athletics, and extracurricular activities. In addition, the district is required to determine, on the basis of data solicited from such a school or school system, whether its applicants have been treated on a nondiscriminatory basis and whether the composition of the faculty and student enrollments are consistent with a policy of nondiscrimination (45 CFR 185.43(a)).

Second, section 706(d)(1)(B) prohibits discrimination against minority faculty. It makes ineligible any applicant which:

> had in effect any practice, policy, or procedure which results in the disproportionate demotion or dismissal of instructional or other personnel from minority groups in conjunction with desegregation or the implementation of any plan or the conduct of any activity described in this section, or otherwise engaged in discrimination based upon race, color, or national origin in the hiring, promotion, or assignment of employees of the agency (or other personnel for whom the agency has any administrative responsibility);

Under the implementing regulations "disproportionate" means the proportion of minority personnel demoted or dismissed during a school district's desegregation effort that exceeds by more than 10 percent the proportion of nonminority personnel demoted or dismissed during the same period (45 CFR 185.43(b)(1)). Also, under the regulations a school district may not assign classroom teachers in such a manner as to identify schools as intended for students of a particular race, color, or national origin (45 CFR 185.43(b)(2)).

Third, section 706(d)(1)(C) prohibits "in-school" segregation. It makes ineligible any applicant which:

> in conjunction with desegregation or the conduct of an activity described in this section, had in effect any procedure for the assignment of children to or within classes which results in the separation of minority group from nonminority group children for a substantial portion of the school day, except that this clause does not prohibit the use of bona fide ability grouping by a local educational agency as a standard pedagogical practice;

Under the implementing regulations, a school district may not utilize a procedure for the assignment of children to or within classes which results in any separation of minority group from nonminority group children for more than 25 percent of the school day, except in the case of bona fide ability grouping. Such grouping must be: (1) based on nondiscriminatory, objective standards of measurement which are educationally relevant to the purpose of such grouping; (2) maintained for only such portion of the school day classroom periods as necessary to achieve the purposes of such grouping; (3) designed to meet the special needs of the students in each ability group and to improve the academic achievement of students in the less advanced groups by means of specially developed curricula, specially trained instructional staff and periodic retesting to determine academic progress and eligibility for promotion; and (4) validated by test scores or other objective evidence indicating the educational benefits of such grouping (45 CFR 185.43(c)).

Finally, section 706(d)(1)(D) prohibits other forms of discriminatory activities. It makes ineligible any applicant which:

> had in effect any other practice, policy, or procedure, such as limiting curricular or extracurricular activities (or participation therein by children) in order to avoid the participation of minority group children in such activities, which discriminates among children on the basis of race, color, or national origin.

Under the implementing regualtions, a school district may not: limit curricular or extracurricular activities in order to avoid the participation of minority group children in such activities; permit the rental, use or enjoyment of the agency's facilities or services by any group which discriminates against minority group children; impose disciplinary actions including expulsion, suspension or corporal or other punishment in a manner which discriminates; deny comparable facilities or instructional services to minority group children; deny equal educational opportunity or otherwise discriminate against national origin minority children; and assign students to racially or ethnically identifiable ability groups, tracks, special education classes, classes for the mentally retarded or other curricular or extracurricular activities which cannot be justified educationally (45 CFR 185.43(d)(1)-(6)).

ESAA Application Clearance Process

Most ESAA applications are submitted to the Department's OE regional offices. A copy of the application is sent to the Regional Office for Civil Rights for review with respect to plan and civil rights compliance eligibility. This review is made on the basis of information contained in the district's ESAA application and supporting documents, data furnished by the district in connection with the Elementary and Secondary School Civil Rights Survey (OS/CR Forms 101 and 102), and the Elementary-Secondary Staff Information Survey (Form EEO-5) and information contained in the applicant's OCR case file. In some instances, an on-site review is also necessary to determine an applicant's compliance status.

If an applicant does not have a qualifying plan or is not in compliance with the civil rights-related eligibility requirements the Regional Office for Civil Rights prepares a draft letter of ineligibility. This letter is then sent to OCR headquarters and to the Office of the General Counsel, Civil Rights Division (GCR), for review. Once approved, a letter of ineligibility is cleared and signed by OE.

Every applicant found ineligible has the opportunity to request a show cause meeting. This is an informal conference, presided over by an official of the Office of Education. At this informal conference the district may show why the Department's determination of ineligibility should be revoked. A request for a show cause meeting must be received within 14 days of the date of the letter of ineligibility. The meeting is held within 7 days of the receipt of that request and the district is notified of the Department's decision shortly thereafter.

Waiver of Ineligibility

Applicants found in violation of any of the civil rights-related requirements may, as an alternative or in addition to the show cause meeting, request a waiver of ineligibility. Applications for waivers are submitted to the Director, Office for Civil Rights. Upon receipt, the applications are reviewed by OCR and GCR and a report recommending that the waiver either be granted or denied is prepared for the Secretary. Under the statute, a waiver may be granted by the Secretary only upon "determination that any practice, policy, procedure or other activity resulting in ineligibility has ceased to exist, and that the applicant has given satisfactory assurance that the activities prohibited...will not reoccur" (section 706(d)(3) of the Act). The statute provides that waivers may be approved only by the Secretary and prohibits the redelegation of such authority.

In processing waiver requests, the Office for Civil Rights is governed by 45 CFR 185.44 which states the required corrective action for a waiver of ineligibility. For example, districts determined ineligible because of practices resulting in disproportionate demotion or dismissal of minority group faculty or staff during the period of desegregation must adopt an affirmative action plan to reestablish at least the proportion of minority staff that existed prior to desegregation. Reinstatement with pecuniary compensation is required where demotion or dismissal was conducted on a discriminatory basis. School districts which have assigned teachers improperly must reassign teachers so that no school is identified as intended for students of a particular race, color, or national origin. For districts not implementing faculty assignment provisions pursuant to a court order or voluntary plan, such reassignments must be made so that the proportion of minority group fulltime classroom teachers at each school is between 75 percent and 125 percent of the proportion of such minority group teachers existing on the faculty of the district as a whole. In the case of racially identifiable classes which cannot be justified educationally, a district must eliminate such classes or reevaluate the affected students and reassign them on a nondiscriminatory basis. School districts which have denied equal educational opportunity to national origin minority children must submit comprehensive plans to eliminate the effects of such denial and to meet the special educational needs of the children.

Under the statute the Secretary is required to notify the Congress of intent to grant a waiver of ineligibility 15 days before an application for a grant may be approved. Because the granting of a waiver does not imply any judgment as to the educational or programmatic merits of an application, a successful waiver applicant may or may not receive a grant.

It should be emphasized that the granting of a waiver is not wholly discretionary. The Secretary does not have the authority to "excuse" a violation of the statute in the usual sense of the word. In this connection, I should mention the case of Kelsey v. Weinberger, 498 F.2d 701 (D.C. Cir. 1974), which arose from amended ESAA regulations published by the Department on August 10, 1973. The new regulations would have allowed applicant school districts additional time to correct faculty segregation problems. The Department's revision was intended to enable large, urban school districts to qualify for ESAA funds on the basis of a two-year plan designed to eliminate racially identified faculties. Some large districts, including Baltimore, Detroit, Los Angeles and Rochester, had demonstrated serious need for ESAA assistance and had submitted proposals rated sufficient for funding except for their ineligibility under 45 CFR 185.43(b)(2). The revised regulations were challenged in a suit filed on behalf of students in the affected districts. On May 14, 1974 the United States Court of Appeals for the District of Columbia held that racially identifiable faculties as well as discriminatory teacher assignment policies and practices must have "ceased to exist" before a waiver could be granted.

FY 1976 ESAA Funding

In considering applications for ESAA funding for the 1976-77 school term, the Office for Civil Rights determined ineligibility in 143 cases. Of this number, 116 were determined ineligible because of civil rights-related violations and 27 failed to establish plan eligibility. The grounds for determining ineligibility in the 116 cases of civil rights-related violations are as follows:

Discriminatory Student Assignment	- 50
Discrimination against National Origin Minority Children on the basis of language or cultural background	- 29
Disproportionate Dismissal of Minority Teachers and Administrators	- 22
Discriminatory Teacher Assignment	- 23
Illegal Property Transfer	- 11

Subsequent to the initial determinations of ineligibility, 51 show cause meetings were held, resulting in 25 revocations. Of the remaining 118 cases, 86 districts applied for waivers of ineligibility; 84 were granted and 2 were denied.

FY 1977 ESAA Funding

In considering applications for ESAA funding for the 1977-78 school term, OCR Regional offices submitted to Washington headquarters, as of June 8, 1977, 225 draft letters of ineligibility. Subsequently, 49 of the draft letters were withdrawn either by headquarters or as a result of a show cause meeting (30 involved plan ineligibility and 19 involved civil rights-related violations). Of the 176 remaining cases (156 involve civil rights-related violations and 20 involve plan ineligibility), 80 applicants have received initial letters of ineligibility from OE and

96 are being reviewed by the Office of the General Counsel or letters of ineligibility are being prepared by OE.

The civil rights-related violations which are set forth in the letters of ineligibility sent to applicants up to June 6, 1977, are as follows:

Discriminatory Student Assignment	- 29
Discrimination against National Origin Minority Children on the basis of language or cultural background	- 12
Discriminatory Employment Practices	- 3
Discriminatory Teacher Assignment	- 4
Disproportionate Dismissal of Minority Teachers	- 2
Discriminatory Disciplinary Practices	- 2

We expect that approximately 40-50 additional show cause meetings will be held and that 120-130 LEA's will apply for waivers of ineligibility during the FY ESAA funding cycle.

Summary Note

In requiring compliance with specific civil rights provisions as a precondition to the award of Federal financial assistance, the ESAA program has had a significant role in the prevention and elimination of unlawful discrimination. In each of the funding cycles subsequent to the enactment of the statute, signficiant numbers of students have been reassigned from racially identifiable classes (including racially isolated classes) and racially identifiable special education programs determined to be educationally unjustified. A number of comprehensive plans have been adopted to provide equal services to national origin minority children. Several thousand teachers have been reassigned to eliminate racially identifiable school staffs and a number of affirmative action employment programs have been adopted where disproportionate demotions or dismissals of minority faculty took place during the desegregation of school systems. It is our judgment that the pre-grant conditions of the kind contained in the ESAA statute are among the most effective ways of enforcing nondiscrimination provisions of law and ensuring equal opportunities for the beneficiaries and potential beneficiaries of Federal financial assistance.

I will be happy to respond to any questions you may have.

Thank you.

Chairman PERKINS. I will ask that we defer questions for a few moments.

Thank you for excellent testimony.

The next witness is Dr. John W. Evans.

STATEMENT OF DR. JOHN W. EVANS, ASSISTANT COMMISSIONER, OFFICE OF PLANNING, BUDGETING, AND EVALUATION, U.S. OFFICE OF EDUCATION

Dr. EVANS. My purpose is to report on the basic structure of that evaluation of the Emergency School Aid Act. (See Appendix 4.) It was a comparison of students in ESAA funded programs with a comparable sample of students in districts and schools not funded in ESAA. The evaluation evolved several major conclusions. With respect to who received the ESAA funds, the evaluation found that the monies are being allocated to school districts whose students have acute academic needs (that is, students who have low pretest scores and low socioeconomic status), and that the schools in turn are focusing on the most needy students.

On the question of what the schools are using the funds for, the findings indicate that approximately two-thirds of the ESAA funds were spent on instruction in basic skills (reading and mathematics), with the majority being targeted on reading instruction.

With respect to the program's impact on student achievement, the evaluation found that there were no significant differences between the ESAA and non-ESAA students for the first two years, but that there is evidence of program impact in Year Three. During the third year, elementary students in the basic program scored significantly higher in reading and mathematics than comparable non-ESAA students, (although this was not true for the basic secondary students or the pilot elementary students).

There was no evidence that, nationally, the activities of the basic and pilot programs have thus far been able to change students' perceptions of the way teachers and principals treat minorities, although progress in this area was found in some ESAA schools. It should be noted, however, that student perceptions of staff treatment of minorities was at a generally high level in both the ESAA and non-ESAA schools.

ESAA programs were found to be particularly effective in schools where: (a) the school principal played a strong leadership role in support of the ESAA program; (b) instructional practices relied heavily on the use of concrete objectives and individualized instruction; and (c) emphasis was placed on the equality of educational opportunity for all students.

In sum, Mr. Chairman, the results of a recently completed major evaluation of the basic and pilot components of the ESAA program indicate that the funds appear to be sharply targeted on needy schools and students, and that, among the various kinds of activities permitted by the legislation, the schools have chosen to concentrate their efforts in upgrading basic skills. Those efforts, after the initial two-year period of the program during which little effect was registered, seem now to be having some impact in raising the achievement levels of the children in the ESAA program.

I think that constitutes a general summary of the findings.

[The prepared statement of Dr. Evans follows:]

Statement by
Dr. John W. Evans
Assistant Commissioner
Office of Planning, Budgeting, and Evaluation
U.S. Office of Education
Department of Health, Education, and Welfare
Before the
Subcommittee on Elementary, Secondary, and Vocational Education
Committee on Education and Labor
U.S. House of Representatives
Tuesday, June 14, 1977
9:30 a.m.

Dr. Evans is accompanied by:

William A. Blakey, Deputy Assistant Secretary for Legislation (Education), HEW

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Mr. Chairman and Members of the Committee:

I am pleased to appear before your Committee today to testify on what evaluations of the Emergency School Aid Act (ESAA) show about the effectiveness of this program. The principal source of evidence we have about the effectiveness of the ESAA program is a recently completed three year evaluation of its Basic and Pilot components.

The design of this evaluation consisted of contrasting the performance of two groups of students: those participating in ESAA-funded programs, and a control group of comparable students not participating in such programs. Starting in 1973, students in grades 3, 4, and 5, and 10, 11, and 12 were pretested and posttested for three academic years using both standardized achievement tests measuring reading and mathematics, and a questionnaire assessing the inter-racial aspects of student-faculty relations. Additional data were collected on the characteristics of the participating schools. In any one year, approximately 65 school districts, 130 schools, and 27,000 students were involved in the evaluation. The major findings from this evaluation were as follows:

1. With respect to who received the ESAA funds, the evaluation found that the monies are being allocated to school districts whose students have acute academic needs (that is, students who have low pretest scores and low socioeconomic status), and that the schools in turn are focusing on the most needy students.

2. On the question of what the schools are using the funds for, the findings indicate that approximately two-thirds of the ESAA funds were spent on instruction in basic skills (reading and mathematics), with the majority being targeted on reading instruction.

3. With respect to the program's impact on student achievement, the evaluation found that there were no significant differences between the ESAA and non-ESAA students for the first two years, but that there is evidence of program impact in Year Three. During the third year, elementary students in the Basic program scored significantly higher in reading and mathematics than comparable non-ESAA students, (although this was not true for the Basic Secondary students or the Pilot Elementary students). This finding correlates with the fact that only in the Basic Elementary sample did ESAA schools have a significantly higher total per-pupil expenditure level than non-ESAA schools. In the other samples tested (e.g., Basic Secondary and Pilot Elementary), school administrators apparently used other sources of funds to provide supplementary services similar to those of ESAA and thus may have obscured the effects of the ESAA program.

The finding of program impact in Year Three, when no such impact was evident in Years One and Two, seems to have two explanations. First, there was apparently an increase in the funding differential (favoring ESAA schools) between Years Two and Three. Second, the greater evidence of program impact may reflect program maturation--that is, an improved implementation of the ESAA program.

4. There was no evidence that, nationally, the activities of the Basic and Pilot programs have thus far been able to change students' perceptions of the way teachers and principals treat minorities, although progress in this area was found in some ESAA schools. It should be noted, however, that student perceptions of staff treatment of minorities was generally positive in both the ESAA and non-ESAA schools.

5. ESAA programs were found to be particularly effective in schools where: (a) the school principal played a strong leadership role in support of the ESAA program; (b) instructional practices relied heavily on the use of concrete objectives and individualized instruction; and (c) emphasis was placed on the equality of educational opportunity for all students.

In sum, Mr. Chairman, the results of a recently completed major evaluation of the Basic and Pilot components of the ESAA Program indicate that the funds appear to be sharply targeted on needy schools and students, and that, among the various kinds of activities permitted by the legislation, the schools have chosen to concentrate their efforts in upgrading basic skills. Those efforts, after the initial two-year period of the program during which little effect was registered, seem now to be having some impact in raising the achievement levels of the children in the ESAA program. By identifying the kinds of practices and procedures associated with successful projects, the evaluation has produced a good deal of programmatically useful information we believe will help make the program more effective.

That concludes my summary of the evaluation evidence, Mr. Chairman. I will be happy to answer any questions you may have.

Chairman PERKINS. Let me thank you for giving us a good statement, Dr. Evans.

That completes the statements.

I would like to ask Dr. Rhodes and Dr. Jordan if you believe the Emergency School Aid Act is meeting any needs which are not now being met by other Federal programs?

In other words, could the objectives of the act be met by funding from other programs.

Dr. RHODES. There are certain aspects of the program that we fund which do direct themseles to the same kinds of things as other programs do. But I think the Emergency School Aid Act, if it is administered as a desegregation related program, does get at certain things that other programs don't. When a school district makes application for ESAA services, there are certain things you have to do before you get into the ball game. That is a very basic difference.

The kind of assessment which the district should do, gets at the matters related to desegregation whereas many other programs which are funded by education programs don't address those particular issues. The funds that we have in the hands of the superintendent who is skillful and who knows the needs of his particular district, or these funds in the hands of a nonprofit organization that can muster community support, do a great deal more than other programs.

So, my answer would be that we have particular categories in the legislation that are specifically related to desegregation. Certainly there are categories in the legislation which do appear to be very similar to other parts of other programs.

Chairman PERKINS. Dr. Jordan.

Mr. JORDAN. Thank you, Mr. Chairman.

Chairman PERKINS. Talk a little louder.

Mr. JORDAN. We think the activities that most school districts use these funds for couldn't be covered by other programs.

In the first place, the school districts we are talking about are implementing desegregation plans. Many have been ordered by the court or some other jurisdiction which has the authority to order them.

The basic part of the program is designed in the legislation, to solve problems which the school district encounters because that desegregation plan had been implemented. Since one of the concerns that many parents have is the quality of education during the desegregation process, school districts naturally choose that area.

Another part of the program, the pilot program which is designed to overcome the adverse effects of minority group isolation where a school remains racially isolated after the desegregation plan has been implemented, provides activities in those schools that other programs wouldn't necessarily provide.

Then the non-profit group funding, the community organizations to assist in the implementation of that plan, can't be gotten from any other piece of legislation. Our experience is very clear that in order for a desegregation effort to be successful you have to have all those elements and particularly the community support and nonprofit group support.

So the combination of basic projects and pilot projects and grants to nonprofit organizations to assist in the implementation of those plans have proven effective and couldn't be achieved from Title I or other pieces of legislation.

Chairman **Perkins**. If you believe there are serious second generation problems of school desegregation in school districts which integrated several years ago, do you believe the Emergency School Aid Act is now helping to resolve those problems? If not, can it be modified in order to take care of that situation, if you feel we have school desegregation problems in districts which integrated several years ago?

Dr. **Rhodes**. Yes, it is possible for the Emergency School Aid Act, as presently mandated, to deal with those particular problems. It is possible for us in the administration of the program in our technical assistance and in a public posture of how we feel about those particular problems to encourage school districts to address those issues. It is also possible, since the kind of problems you are talking about involve, essentially, discrimination. By monitoring of projects by the Office of Education by groups which work with school districts, we have funded under the Emergency School Aid Act, a program called Special Student Concerns. This particular program addresses the question of disproportionate numbers of minority students who have been dismissed or suspended from school or a disproportionate number of minority students who have been disciplined. This calls for the shool district working with the group. We have a problem; we need some help and we want to look at it.

This is a situation where the superintendent perceives there is a problem and his lower level administrators are the ones he wants to help.

Our program can address that. However, if you happen to be in a State where a particular district is undergoing extensive desegregation and you are talking about another district in that State that has second generation problems, it is quite likely funds may be exhausted before you reach that particular district in that State.

We do have means under another section of the act to deal with districts with extensive desegregation which need additional funds. But still, if you are in that State and the money is exhausted, a problem exists for you.

Mr. JORDAN. Mr. Chairman, it is possible for us to address both new and old desegregation. The most difficult problems are the second generation problems.

We notice a very specific cycle in the grants we make to the various school districts implementing school desegregation plans.

In the first year you are often faced with trauma. The most noticeable example in the past two years has been Boston. Activities for that kind of school district usually involve heavy concentration in rumor control centers, community-related activities. As time goes on you move away from the trauma phase into second generation problems. At that time the school districts move away from such things as rumor control centers and more and more into the educational problems they have encountered because of that.

Chairman PERKINS. This second generation situation can be a real problem if we don't provide the funds in the areas where these problems exist throughout the country.

Mr. JORDAN. Yes, sir. In the State apportionment program last year we lacked approximately $50 million of being able to fund those districts dealing primarily with second generation problems.

Chairman PERKINS. And it is your judgment that by all means we should fund those programs regardless of what section of the country they exist in, to take care of this second generation problem?

Mr. JORDAN. Yes, sir.

Chairman PERKINS. Do you agree, Dr. Rhodes?

Dr. RHODES. I think if you have limited funds, you have got to make some decisions as to how you are going to spend your money.

Certainly, if you had unlimited funds you would want to take care of all the problems there were. But if you have limited funds you have to make a decision as to where the bulk of your money will go.

I think you will deal first of all with newly desegregated districts.

However, it is quite possible we will still be able to meet the bulk of the second generation problems you are talking about. In terms of a specific part of the country, my feeling would be, you address the problems wherever they are.

Chairman PERKINS. Thank you very much. I would just like to mention at this point that without objection I would like to insert in the hearing record an excellent speech on the subject of these second generation problems delivered by Mr. Fred Venditti of the General Assistance Center at the University of Tennessee at the Carolina Desegregation Conference. (See Appendix 11.) Thank you again, gentlemen. Mr. Le Fante.

Mr. LE FANTE. Mr. Evans, in the next-to-the-last page of your testimony, you refer to the fact that program funds appear to be sharply targeted on needy schools and students.

Would you define that for us, Dr. Evans?

Dr. EVANS. Yes, Mr. Le Fante. That indicates the schools which actually received the funds were, by measures of student achievement and socioeconomic status, schools which appeared to be in need of those funds.

Mr. **Le Fante**. You have just described what you think to be a needy school?

Dr. **Evans**. As I indicated, and I think both Mr. Rhodes and Mr. Jordan indicated, when you look at the pattern of expenditures of funds the way the school districts spent the funds they received, they spent more than two-thirds of their funds on activities to upgrade the students. They were saying the third objective of the legislation which is minority group isolation, was the principal problem they faced. They spent most of their money there.

The program has worked out in such a way as to allocate funds to school districts and children most needy in that respect.

Mr. **Le Fante**. I want to give you a hypothetical sitation: As you define needy schools and needy students, let us assume within an urban area, there is a needy school on 20th Street, and 20 blocks away on 40th Street is a school which wouldn't fall into the category as you define needy schools with needy students.

We would move the needy students attending a school in their backyard on 20th Street and we would send them to 40th Street. Is that correct?

Dr. **Evans**. No, sir. Let me ask Mr. Jordan to answer that question.

Mr. **Jordan**. The school district must be eligible to receive the funds under the act. That means the school district is implementing a plan that meets one of the qualifications of Section 706 of the act. The Office of Civil Rights must certify that district is eligible to receive funds under this section. Now, that plan is already in place before the district becomes eligible. Then the school district takes a look at their situation and does a needs assessment based on the schools directly affected by that desegregation plan.

If you have a school which has students reassigned from the school, reassigned into the school whatever the desegregation plan is, a school affected by that plan is eligible to participate in ESAA activities. They wouldn't be eligible if the school was not affected by the desegregation plan.

Once the school system has been determined by OCR to be eligible then the Office of Education determines which schools within that school district are eligible to receive ESAA activities based on the proposal by the school district.

So the activities which would be in any given school would be a direct result of the district applying for the plan.

Mr. **Le Fante**. It doesn't seem to be working that way in our urban areas. For example, in the northern New Jersey area, we are asking the mothers of the minority children to walk their children 20 and 25 blocks to a school so we can have integration so that needy students who live in a low tax district, have the same teachers as those in the higher tax district.

I can't see why we should be giving schools funds to upgrade schools when they should be automatically upgraded.

The protests we receive are from the mother of that minority child who has to walk her child 20 to 25 blocks and endangering the child by exposure to the hazards of traffic and inclement weather.

It is so serious that these mothers have been threatened with arrest. Many of the mothers have received court orders to get their children up to the other schools. These are the children who live a block away from a school in their area.

In defining needy schools with needy students, this is an area we should review. It is not working the way you define it.

Mr. JORDAN. You are talking about the desegregation plan the school district is implementing. In New Jersey, I believe, in most of the New Jersey districts, ordered by the New Jersey State Department of Education. That is the responsibility of the State department.

I understand there have been some court suits requiring the New Jersey State Department of Education to eliminate discrimination within the State.

Now, after the State and the school district have decided on what the plan is to be implemented and after that plan has been implemented, that happens before the Office of Education comes into the picture. After that has been done, then the school district calls on us to assist them to implement that plan.

It is only after the plan has been approved by the New Jersey State Department of Education and the school district has implemented that plan that they call upon the Office of Education for assistance to help them solve problems created by that implementation. But we have no way to govern what that plan is.

Mr. LE FANTE. That is the status of it right now. The plan has been implemented and it has been met with great, great resistance. It is unbelievable. And it is coming from an unexpected area. The parents of the minority children themselves want to be left alone. They want to stay within their own neighborhood. The district can't bus them because it doesn't fall within the regulations for busing. This is the third attempt to implement such a program. The previous two were rejected by the State Department of Education. As far as upgrading the schools, there was an attempt made to do that but the plan apparently fell short of certain criteria outlined by the Federal Government.

I thought perhaps what may be happening is that they are stampeding into various unpopular types of programs in order to get some of the ESAA funds. That will not solve any problems; it will create more, if anything.

Mr. JORDAN. We don't say to a school district what that plan is to be. If the school district meets the requirements, they are eligible to apply for assistance. However, there is nothing in the law requiring the school district to seek assistance from us.

Mr. LE FANTE. Thank you, Mr. Jordan.

Mr. Pressler.

Mr. PRESSLER. I know in my State of South Dakota, there were 22 awards, I would like to get in writing what these were for. I note from the listing many would probably be in regard to Indian children in South Dakota. What has your experience been in regard to Indian integration attempts as compared to other minority groups?

Mr. JORDAN. In the northwest most of the school districts which have become eligible for ESAA have occurred because all American

Indian schools were combined with the public schools, some being BIA schools.

When that desegregation takes place then the type of proposals the school district usually requests fall into two areas, one is to teach the basic language schools needed to provide equal educational opportunities for the Indian children.

The other is in the other basic skills so they all achieve on the same level.

Mr. **Pressler**. So it is not a matter of moving the people but making those in the school system more attuned to the culture.

Mr. **Jordan**. They become eligible because a BIA school closed and the Indian children were transferred into the local school district or because the local school district transferred from other schools Indian children into their school district.

We will be glad to submit a listing of those districts.

Mr. **Pressler**. Basically, I see in your testimony, where you have sort of a set situation in your integration efforts. Under this bill, you are allowed to work on language and cultural aspects to prevent drop-outs—of course, drop-outs wouldn't be an issue, would they?

Mr. **Jordan**. Once a desegregation plan has been implemented, then the 12 activities authorized under the act are so broad that a school district can address those they feel most pressing to that school district.

Mr. **Pressler**. Thank you very much.

Mr. **Le Fante**. Had there been no movement taking place, would that district be eligible?

Mr. **Jordan**. No, sir. The Act says there has to be some reduction in isolation in order for a school district to be eligible for this assistance.

The amount they are eligible for is tied directly to the amount of reduction. A school district which has 50 schools and only has reduction in one school, has only one school then eligible for assistance under this act.

Mr. **Le Fante**. Is that within the same district?

Mr. **Jordan**. Yes, sir. If all 50 schools were involved, all 50 would be eligible.

Mr. **Le Fante**. Say you have six schools, they close one down and they move the population of that school into the remaining five, is that correct?

Mr. **Jordan**. Right. If one school is closed and the children in that school, assuming it was an all minority school, for instance, were reassigned to the other five existing schools, those schools would be eligible to apply for assistance under the act.

I have just been reminded there is another provision of the act which may not require movement. A district can establish eligibility by maintaining an integrated school as defined in the act; that is a school which is stable in terms of non-minority and minority students; a school which has at least 65 percent advantaged children, a faculty representative of the communnity at large. The purpose is to maintain that school as an integrated school.

It goes back to an original bill, the Quality Educational Act, which once was before Congress. It ended up as the Emergency School Act. That was one feature of the bill, maintaining a quality integrated school.

Mr. **Pressler**. If the gentleman will yield.

Mr. **Le Fante**. Yes.

Mr. **Pressler**. Maybe you would like to respond to this in writing. In the Indian schools, integrated schools, do we have any measurement of success with this program?

Mr. **Jordan**. I would have to research that.

Mr. **Pressler.** I don't want to generate a lot of work, but how do we know in South Dakota? Do we have other than opinions of teachers, which is important and which is perhaps the only measure we have? Do we have any way of measuring a program such as this?

Dr. **Rhodes.** It really depends on what your measures of success are. No. 1, the process by which you apply for an award necessitates the school district, No. 1, involves the community which could be entirely new for a school district.

No. 2, it says you have an advisory committee which oversees the program which could be entirely new.

It means you will have minority and majority parents in roles different than those held before.

If you go to secondary school you will have a student advisory committee. Granted we have not been able to make them function as we like but they have functioned in some places. One thing we have to keep in mind is that the Emergency School Aid Act is a desegregation measure and those activities you can engage in which means something positive is going to happen between the races as a measure of success.

In terms of the academic achievement of students, that is one measure. The fact the students would learn more about one another in an integrated setting is another measure.

I think we can certainly find out. In terms of some of the photographs I have seen coming from projects, I feel something has occurred as a result of this program with respect to the relationships among people.

Mr. **Jordan.** There is one other thing we could provide for the record, Mr. Pressler, each school district writes a specific set of objectives. We also require there be an internal evaluation to see to what degree their objectives have been met.

Mr. **Presler.** Thank you very much, Mr. Chairman.

Mr. **Le Fante.** Mr. Kildee.

Mr. **Kildee.** Mr. Tatel, I realize the ESAA doesn't dictate the plan but I have a related question.

Does HEW use the same criteria as the courts in determining whether a school district is engaged in segregation?

Mr. **Tatel.** You are referring to Title VI?

Mr. **Kildee.** Yes.

Mr. **Tatel.** The courts have held Title VI and the Constitution are co-extensive. In our processing of complaints and compliance reviews, we apply the standards articulated by the courts. For example, a school district will only be found in non-compliance with Title VI if we have proven intentional non-compliance with regard to continued intentional segregated activities. We also are guided in providing relief to school districts.

Mr. **Kildee.** So you would make a distinction between de jure——

Mr. **Tatel.** Yes, in all cases where we have obtained a de jure decision.

Mr. **Kildee.** Thank you, Mr. Chairman.

Mr. **Le Fante.** Mr. Weiss.

Mr. **Weiss.** How is that term of isolation utilized?

Mr. **Jordan.** I did not hear.

Mr. **Weiss**. One of the criteria you use for the granting of these funds is on the basis of the plan's effectiveness of reduction of minority isolation, then it goes on to say isolation of individual minority group children. Give me some indication as to how that term is interpreted.

Mr. **Jordan**. The Act requires we measure the comprehensiveness of a desegregation plan. We measure that by the amount of reduction in the isolation which has occurred in the school district from the year previous to the first implementation of their plan, compared to the current year measured over time.

Mr. **Weiss**. I am trying to get a term of art as to isolation.

Mr. **Jordan**. It is defined in the Act as any school which has more than 50 percent minority students enrolled. That is the definition of a minority group school.

A school district 80 percent minority, total elimination of minority isolation would be below 50 percent, if it is below 50 percent, it would be eliminated. If it ends up to 70 percent there would be a reduction but not an elimination.

Mr. **Weiss**. Then you determine the next year's grant on the basis of whether there has been a reduction or not?

Mr. **Jordan**. That is part of the criteria we use.

Mr. **Weiss**. Because it seems to me in many of our major urban areas where you have factors having nothing to do with the nature of the Federal programs of assistance, you have increased isolation regardless of the number of programs of this kind that you have or the amount of money you spend.

Mr. **Jordan**. It is, in fact, true that districts are eligible for ESAA funds and are funded that don't show a reduction. That is primarily because enrollment patterns change. A school district that implemented a desegregation plan in 1970, and you measure the amount of isolation in that school district in '69 and see how much reduction has occurred in 1977, quite often the amount in 1977 is considerably different than in '69 than that in '70. Sometimes caused by the growth of the school district or changes in enrollment.

School districts compete for these funds within a State. We can't legally take money from a State as long as there are eligible fundable applicants in a State. Therefore, we end up funding many of these districts. A school district, all other things being equal, that is they both have, assumingly, the highest quality application, the same number of minority group children, then the school district which achieved the greatest amount of reduction would receive the greatest number of points than that which received no reduction.

Mr. **Weiss**. There is absolutely no correlation amounts between the effectiveness of the program itself or the degree of reduction or decrease in isolation.

Mr. **Jordan**. There is a correlation, we find, between the severity of the problems the school district faces and the kinds of program they choose to operate and the amount of reduction and isolation which has occurred.

Mr. **Weiss**. If we are defining isolation again by the percentage of minority group children in a school, it seems to me that is not likely, in my experience, to be determined by the quality or caliber of the program. If you have the kind of population shifts as you have in many of the urban areas now, it just seems to me you can have the greatest program on paper in the world and still have an increase in isolation year after year rather than a decrease.

Mr. **Jordan**. Yes, sir. And that is one of the reasons for the pilot programs so that after the desegregation plan had been implemented and there still remain schools which remain isolated as defined by the act they can apply for a pilot program. It doesn't have to be in the school affected, it merely has to be an isolated school.

Mr. **Weiss**. Thank you, Mr. Chairman.

Mr. **Le Fante**. Counsel, do you have any questions?

Mr. **Jennings**. Dr. Rhodes, we have had some complaints over the years there may be too much rigidity in administering this Act. We would be interested in finding out whether the rigidity comes from the Act itself, or the administration of the program?

Also do you have any suggestions as to how the Act could be made more flexible and responsive?

Dr. **Rhodes**. Would you be more specific as to what part is less flexible?

Mr. **Jennings**. For instance, since under your regulations so much weight is given in approving applications to the numbers of children who are integrated and the degree to which they are integrated and relatively lesser weight is given to the quality of the applications, we have had complaints that applications from small, poorer school districts are not approved; the money is taken away from smaller rural districts which have a great need and that money is shifted to the larger or urban school districts.

Mr. **Rhodes**. You have picked an area I can respond effectively to, the funding patterns don't hold up with respect to that premise. This could happen but the thing that really happens is that a significant number of large school districts submit poor applications. Consequently, smaller districts have a better chance in the first round.

Now, you could be in a particular place and you couldn't get funded. But when we look over the entire country and look at all the districts which we fund, we do find that the smaller districts do get funded. In the event all the large districts in the U.S. turned out excellent applications the first time around, we would have a problem.

But in terms of the administration we have not had as great a problem as it appears on the surface.

Mr. **Jennings**. Under your regulations, I believe about twice as much weight is given to numbers as to quality. In the State of South Carolina after the applications were approved I was told that the money shifted to the three largest school districts in the State which didn't rank as high on the quality indices as the smaller, rural districts from which the funds were taken.

In Georgia, the smaller districts qualified for a period of time; but when Atlanta applied because of the numbers of students the Atlanta school district had, I was told that the ESAA funds in Georgia shifted from the smaller districts to Atlanta.

Mr. **Jordan**. You have posed three things there, all three are true to a certain extent. It is true in the first couple of years of the administration of this program, it would not have mattered what the criteria was, everyone was funded. The first year Congress appropriated $236 million. The program was new at that time. Most of the eligibility still remained in the southeast, comparatively speaking. Under the reallocation provision of the Act which allows us after the processing of applications are complete and 60 days before the end of the fiscal year we can reallocate funds not used in certain States to other States. In the first year of this program we were able to fund every district in the U.S. that applied and return $30 million to the Treasury.

The second year we were able to fund every school district applying for funds under this program with two exceptions. The grant to Providence, Rhode Island, was reduced and the grant to Indianapolis was reduced because there was very little money left.

The courts were becoming more active and the Office of Civil Rights was becoming more active, more desegregation was taking place and we came into the third year of operation of the program with $215 million as compared to $236 million. When we had funded the eligible applications we still had in a fiscal hold category $80 million worth of applications we couldn't reach.

Every year since then the same has been true. We are not able to reach all of them. The Act is not an entitlement program. There is no formula in the Act which says everybody who is eligible in the States is entitled to a certain amount of money. The Act says there is a State apportionment and school districts within that State compete for the amount of money available. Since it is a desegregation bill and since the majority of the money in this bill goes to solve problems created by the implementation of a desegregation plan, we naturally give more weight where there is more desegregation taking place.

Other things being equal, a school district which is reducing isolation to a greater degree is eliminating discrimination of students and teachers and assigning them in a manner so there are no racially identifiable schools either as to students or faculty which will score higher.

So it is discretionary because it is competitive. For instance, in South Carolina if more desegregation is taking place in Charleston than in Hampton County, and we don't have enough money to meet Hampton County, the money will go to the district reaching the greatest amount of desegregation. We believe that is proper. The only way you couldn't do that is for Congress to write a formula in the act guaranteeing everybody in the State a certain amount of money and if you did not have it you cut everybody prorata.

Mr. **Jennings**. The point is you have attributed much greater weight to the numbers involved than to the quality of the education?

Mr. **Jordan**. That is correct. There is up to 80 points possible based on the number of minority group children enrolled in the district, the number of actual students reduced in isolation and the percentage that represents. It is a possibility to make up to 80 points on that. It is possible to make up to 45 points on quality. But that is what I say, we put the emphasis where the desegregation is occurring and where the greatest problems occur.

Mr. WEISS. Will you yield?

Mr. JENNINGS. Sure.

Mr. WEISS. Take New York City, for example. As more and more white families leave the City and the City becomes more a minority city, it becomes less and less likely that you are going to have desegregation. It becomes more difficult to achieve desegregation. It requires greater monies, greater innovation and thinking in order to achieve any kind of desegregation. Instead what is happening according to the description you have given is that the various communities which, in fact, are not faced with these problems, are the ones likely to be funded. The communities faced with the ever increasing severity of the problem have to go to much greater lengths to stay even, they are going to be penalized and never in a position to achieve any kind of benefits at all.

The program has turned itself inside out.

Mr. JORDAN. In New York with the exception for the City of New York, the competition is Buffalo and Rochester.

Mr. WEISS. That is half the population of the State of New York.

Mr. JORDAN. Practically all the money allotted to the State of New York goes to the City of New York. There are only approximately three districts, Buffalo, Rochester and Niagara Falls, which receive funding. The basic competition is within the school districts themselves. There are 32 community school districts in the City of New York. The competition is between those 32 school districts in New York.

Dr. RHODES. The Emergency School Aid is not a general aid bill and the thing to keep in mind is—and I can send this information to you—if we look at the funds received from '64 through '75, and we can update it for the next year, New York has received the second highest sum of money under the Emergency School Aid Act of anybody in the country, New York City. So New York City has received the funds.

Mr. WEISS. I am talking about the aim of the program, not the amounts of money. I am talking about the definition and description you just gave as to the criteria is based on reduced segregation.

Mr. JORDAN. That is only one of the criteria, particularly in New York where none of the school districts can show reduction of isolation; some of them show nothing. They either show zero or negative.

Mr. WEISS. Because of the change in the population, or mixture.

The OCA problem is different.

Mr. RHODES. One other thing to keep in mind about the Emergency School Aid Act is, this particular piece of legislation has done the most to provide assistance for persons in terms of being a piece of legislation that has caused people to do something because of the legislation.

Dr. EVANS. I would just add to this discussion the re-emmphasis of the basic point, that it is very hard for all of us to keep in mind, in discussing this Act, the point stressed several times by Mr. Rhodes and Mr. Jordan. That is, these are funds put out to assist with problems incident to desegregation after the desegregation has been put in place. It is not an Act which has an attraction or a mechanism for achieving desegregation. It is an Act to help deal with the problems incident to desegregation after a desegregation plan has been put into effect.

The emphasis in the criteria as to the number merely reflects the judgment. There ought to be more emphasis in some cases where desegregation is hard to achieve or is a large order problem. That again comes back to a legal decision, a court order, a population problem or something else.

Mr. WEISS. Thank you.

Mr. LE FANTE. Mr. Quie.

Mr. QUIE. Now that the Emergency School Aid Act has been in operation for this length of time, what would you say would be the main need out there?

Dr. RHODES. We have initiated an assessment of this period of administration, particularly since the new authorization is coming up. The Department is examining all aspects of our program.

It so happens that program experience has said certain things to us. It seems to say to us, take some sort of assistance to persons, and I use persons so as not to restrict it to the LEA, some sort of assistance before the desegregation takes place, insures desegregation moving smoothly. That is one of the main things that we have learned, I feel.

Secondly, money doesn't buy desegregation. That is another thing we have learned from the program. We also learned that superintendents can, with the Emergency School Aid Act, do just about everything that is needed to make it go.

I recognize that superintendents have difficulties with their boards of education because sometimes you have a situation where a board will turn down a proposal developed by the administration to meet a need because the board didn't want that particular proposal. But we have found that the direct line of assistance from the Office of Education to the local school district is something which superintendents have said, yes, this is a program that is meaningful to me. It allows them to deal with the rumor control center, to communicate with parents so that whatever happens, can, in fact, be smooth.

So, I think one of the things we have to do at this point in time, is to look at all the things we have found during this period and as we prepare, within the Department, a recommendation to come forward as to what the legislation should be, make certain that we do, in fact, take into consideration all these things. We are presently doing that. But no final decision has been made as to what direction we will go.

Mr. QUIE. In most programs once Federal money is being used, there is a strong desire to keep it coming. By your answer, it seems to me you are saying it ought to be in the initial stage and help them over that transition. Once they get desegregated then they don't need this Federal money any more and you ought to go to other places that need it.

Are you saying that?

Dr. RHODES. I am saying the need for assistance for certain districts is going to be with us as long as we have court orders that say we have plans and as long as there is discrimination.

It would seem in some districts at some point in time, the level of funding, first of all, would not have to be the same level and at some particular point in time, a particular school district would not be in financial need. I realize many school districts had financial problems during '77, however, there are some which had greater needs than others in terms of desegregation. The work of your group in terms of experience, is there are districts we feel need the money first? The money is not unlimited and you have to decide where you want to put the money.

The next thing we have to do is to make recommendations as to particular categories as to which are doing a better job than others.

For example, our program feels very proud of the special arts program, as to what that has been doing in bringing about a better understanding between minority students and non-minority students.

Mr. QUIE. As you initially look at the legislation, there are two ways we can operate: One is to set by law the guidelines on how you cut off a school district; meaning you are getting so much political pressure you can say the law tells me this. On the one side we can leave you as much flexibility as possible.

Which would you prefer, personally?

Dr. RHODES. Personally, I would address it this way: People get paid to do a job. The people who administer a program, if there is heat, if you decide you are going to go through with your decision, you have to take it; that is part of the job.

At this point, I would say, since I am not dealing with departmental policy, it is our job to administer in the best possible way whatever funds are going to be made available, then the criteria we develop would tend to give funds to those districs we consider the ones "most worthy," in quotes, however we define the words "most worthy."

Mr. QUIE. Would you submit for the record your experience in cutting off school districts, a few different combinations, be sure to use Minneapolis and St. Paul. There is a unique situation there.

Dr. RHODES. We do have some experience as to reducing. A district has received in a given year, say, $2 million and they come up for something again and you only give them a million and a quarter. They come up again and you only give them $700,000.

I think if we can justify to all the people who write to us asking why we have done this, on a solid basis, we have been able to live with it. For instance, if we indicate we will deal only with schools under the plan, if there are only five schools you will be dealing with, you don't give funds to work in 20 schools.

Mr. JORDAN. Mr. Quie, one thing we think creates a little bit of a problem is the State apportionment problem. In the earlier years when there were sufficient funds for everyone, then the State apportionment formula didn't hurt anyone. In Minnesota, the State apportionment formula only allots $300,000 to the entire State. $300,000 is not enough money to fund one city. Where you have States with a small allotment under the act but a large problem you do run into a difficult situation, that would be Wisconsin, Minnesota, and Massachusetts.

Mr. QUIE. Do you think we could permit the States to play a greater role in the determination? When we wrote this we had in mind the southern States, we weren't going to give George Wallace all that power, et cetera. I think this is one problem.

Look at Minnesota. We have a strong effort on the State's part to enforce civil rights laws and ethics. I would tell you that would be a State you could easily turn over some of that role and let them make a determination on their $300,000.

How would you feel about that? Perhaps I would suggest a selective basis amongst the States.

Mr. JORDAN. We have some information on that, Congressman, but it is not complete yet.

The Department has done a survey of State departments. It appears at this time there are very few State Departments of Education willing to play that role. A recent study of Title VI by Rand, indicated the States didn't, in fact, play this role, with some exceptions. The problem would be how to define a State role that would be acceptable and whether a State was willing to play that role.

New Jersey, for instance, is one that is, also.

Mr. QUIE. If I went that route, it would be only to those who can demonstrate their ability to do it, even on a pilot basis such as we did on student aid program.

Let me ask you if I might send some questions and get some answers on them.

First, a recent Supreme Court case decided you don't change the seniority rules in employment to make up for discrimination that existed in the past. In schools, faculty assignments are being shifted and many of these are controlled by union contracts. Did you think it makes sense to deny districts this money based on faculty assignments?

Dr. RHODES. If the assignment was done in a discriminatory fashion, I would say no choice in the matter.

Mr. JORDAN. The act provides a school can't be racially identifiable by faculty. If you have a school which the faculty clearly indicates that school is clearly for one race then you have a problem under the Act.

Mr. QUIE. Secretary Califano's remarks suggest we are going to have goals with numbers on them.

Mr. TATEL. I have only briefly read the court decision you are talking about. I assume it is the Tine case which came down last week.

Mr. QUIE. Right.

Mr. TATEL. That dealt with the question of seniority plans. The ESAA program and the statute deals with assignment of teachers in the system. One of the remedies is reassignment. It also deals, of course, with employment discrimination.

As I have said, although I have only briefly reviewed the order, the court made a distinction between employment discrimination which occurred prior and after the enactment of Title VII. After enactment of Title VII readjustment is still required to remedy desegregation. Most of the employment issues we deal with are recent ones because they occurred after the ESAA enactment in '72.

Mr. QUIE. But not all.

Mr. TATEL. The only civil rights violations which could cause a problem with ESAA are after June of '72. We don't look prior to that date.

Mr. QUIE. How do you assure that the regional staff are issuing consistent interpretations?

Mr. TATEL. Are you talking about OCR, generally?

Mr. QUIE. Yes.

Mr. TATEL. I have only been in this job for six weeks. I am learning a great deal about it. One of the things the GAO has identified and HEW is aware of is the Office of Education has had difficulty in issuing consistent policy statements.

The first thing I have done since being in office is to reorganize the office with a separate Washington policy office which is responsible for all Title VI enactment. The regional offices have been notified all policy making will be made in Washington in consultation with the general counsel.

There has been less a problem in the ESAA because the regulations are strict and there has always been a Washington review of all ESAA decisions.

Mr. QUIE. I will send some questions for you to answer as I have to go to the House floor now and do not have time to ask them now. (See Appendix 10.)

Mr. LE FANTE. You will have to excuse us now.

Mr. Jennings has some questions.

Mr. JENNINGS. Do you believe there should be a new competition every year for these grants or do you believe some type of multi-year funding should be provided for?

Mr. JORDAN. Mr. Jennings, the question you asked is one we have given a great deal of thought to in particular lately. It is true the Act now requires an application be submitted by an applicant for the fiscal year the assistance is sought, which means there is competition each year. It means there is no guarantee of second- or third-year funding.

The questions arise, though, how much money do you put in continuation grants, what kind of amendments to the Act do you require if you go to multi-year funding and is it, in fact, desirable to go to multi-year funding. This is also tied into questions as to whether you implement pre-implimentation activities where you would permit planning activities and guarantee funding beyond that point.

This is one under study by the Department now. It was ordered by the Secretary and there will be a report on that shortly.

Mr. JENNINGS. Could I ask you about this planning reference which both you and Dr. Rhodes have made. As you know, one of the major complaints from Los Angeles is that they are not qualified to receive any money under the Act until they have integrated their faculty. The same complaint was made by Detroit last year and also by a number of other school districts. The point seems to be a school district has to go through the experience of adopting an integration plan and assuring that it follows other types of nondiscriminatory behavior before it can qualify for funds. Do you believe the Act should be loosened up so a district can be qualified for some aid before it has adopted a plan or before it has integrated its faculty?

Mr. JORDAN. We don't feel we want to change this to a general aid bill. The Act is very strict. We made one attempt to provide two years for corrections rather than one. That was because of Los Angeles, Detroit, Oklahoma City, Rochester and Baltimore at that time. We wrote regulations to that effect to allow two years for these corrections to occur, rather than one which resulted in the Kelsey versus Weinberger suit.

Mr. JENNINGS. My question is, should the Act be amended?

Mr. JORDAN. If you amend the Act, we would hope that we wouldn't lose the civil rights thrust of the bill. The kind of pre-implementation activities that we are concerned with in our '78 budget request, we requested some funds for pre-implementation activities. We defined that in our budget request as activities which would take place in a school district before the implementation of a plan but after the adoption of a plan, that is, after it was determined a plan would be implemented. But there was a need for funds before the implementation of that plan.

The danger in amending the Act to the point where you relieve too many of the civil rights restrictions in the Act is that you would create a situation where a school district could use that as an excuse for not desegregating. They could say, "Don't bother us," to OCR, "we have a planning grant." They could say to the court, "We are before the Office of Education and they have given us authority to plan." It is a difficult area and would have to be carefully regulated.

. Mr. TATEL. May I add a couple of points. When you consider the question of the strictness of the civil rights provisions in the law, it shows that the overwhelming number of school districts are ultimately able to qualify.

In the last fiscal year we sent out 143 letters of eligibility, after the show cause hearings and waivers were granted, 109 of those districts had obtained eligibility. Of the 34 that didn't about half were for planning eligibility. We really only had in the last fiscal year perhaps 15 districts out of the 800 which applied who could not meet the civil rights standards.

Our experience has been the relatively strict requirements in the satute and the pre-review process and the strict waiver requirements have resulted in elimination of the kinds of second generation problems the chairman spoke about.

We have some statistics for two prior fiscal years, '74 and '75. I think we know approximately 244,000 children were reassigned from racially isolated classes. Twenty-five thousand minimum students were reassigned from racially identifiable classes. We had 116 affirmative action plans adopted which led to the hiring of 300 teachers and three principals. That is a fairly high accomplishment.

In changing the civil rights requirements I think it is important to look at the Kelsey decision. The court concluded although the statutory language on waiver power was somewhat vague it needed to be interpreted strictly. Title VI prevents the Government from issuing funds under certain conditions, any loosening of which may result in constitutional problems.

Mr. JENNINGS. I think you are taking credit for moving children who have been ordered moved under court order or OCR order.

Mr. **Tatel**. The statistics I gave you were from those who came into compliance after a show cause hearing or obtaining a waiver.

Mr. **Jennings**. With your first point, don't you think, even though the numbers which ultimately don't qualify seem to be small, just the existence of these provisions in the law causes school administrators to become discouraged from approaching for pre-integration types of activities. Therefore, the existence of these things probably scares people away.

Mr. **Tatel**. I don't know. When I see there are 800 applications that seems to me to be a lot. When I look at the fact that virtually all the districts we find ineligible virtually always obtain eligibility would lead me to believe they can surmount these problems.

If, in fact, school superintendents find or think the restrictions are discouraging, perhaps the solution is for us to do a better job in terms of our education, in terms of publicizing the fact that most districts are able to comply, rather than to loosen up civil rights restrictions which may, in fact, be constitutionally required.

Mr. **Jennings**. Those are valid points. You don't want to do anything which would loosen up constitutional restrictions; but if you look at the number of school districts which have received funds, in fiscal year 1973, of the total amount of money spent, 59 percent was spent in court ordered actions, 17 percent in districts with HEW plans under Title VI, and 24% in school districts adopting voluntary plans. However, by '75, there had been a shift, 55 percent court ordered districts, 33 percent Title VI districts, and only 12 percent was spent in nonrequired plan districts.

This would seem to say over the three-year period of funding under the Act there was a shift so that half as much money was spent on a percentage basis in school districts qualifying with nonrequired plans. There does seem to have been a shift in the program away from voluntary efforts to integrate to funding activities in districts which have had to integrate under court order or under mandate from OCR.

I realize all your arguments are valid, but it seems the Act is not fulfilling one of its initial purposes which was to help in preventing segregration. There may be problems in that but over a period of time the Act has evolved in such a fashion it is helping school districts otherwise required to do something. The basis of these questions is whether there might be some way to loosen up without denying people the opportunity to voluntarily achieve integration which is the basis of the whole process.

Mr. **Tatel**. There is an increasing number of court orders and HEW Title VI plans. I would agree with you if this is having the effect of draining funds away from nonrequired plans, that is something which would possibly be corrected by changing the formula under which the funds are allocated or by making more funds available under the Act.

Mr. **Jennings**. In your statement, the one thing I did not see explained is exactly how the Office for Civil Rights reviews a fact situation in a school district to determine whether it is eligible or ineligible.

Mr. **Tatel**. These are done essentially in our regional offices. They begin with the ESAA application, with the school district's responses to the elementary and secondary survey, the 101's and 102's or through applications to the Federal Government or case files. Those data will indicate whether there are violations or they will reveal statistics which will reveal there may be violations. In the latter, an on-site visit will be precipitated. A great amount of time is put into the ESAA process. On an annual basis we think it is approximately 100 person-years which goes into pre-grant clearance.

Mr. JENNINGS. Would you provide for the record specific information as to the amount of time and the number of site visits.

Mr. **Jennings**. Dr. Evans, I notice in your statement you seem to say the types of school districts applying for ESAA are those in need in terms of the fiscal ability of the school districts and the numbers of children with low academic achievement. However, you don't seem to indicate from your evaluation report that much good is being done in the program in terms of human relations or in terms of academic achievement.

In the background materials supplied to the committee, however, there is a description of the evaluation which says that "The preliminary evaluation shows that during the first year there has been significant academic achievement made by students in Emergency School Aid schools." (See Appendix 5-B.) There seems to be a discrepancy between this summary and your summary of the evaluation in your prepared testimony.

In the first evaluation of the Emergency School Aid Program, there was a finding in the evaluation that an emphasis on human relations types of activities in local school districts was more beneficial in integrating situations than other uses of the money. Yet I don't see the same results coming from your evaluations under the Emergency School Aid Act. Have you been able to follow that up?

Dr. **Evans**. I am unable to give as clear an answer to that as I would like to give. The kind of data we were able to gather in the second was different than that we were able to get in the first. We had some difficulties in the field situation which caused us to make some changes in the instruments we used in the second evaluation. Their breadth of coverage was less broad than in the case of ESAA evaluation.

About all we can say, regretably, is that with respect to the second evaluation where we did measure what might be called the inter-personal relations between students and faculty without as much emphasis on their interracial aspects we didn't find the preesence of the program as compared with the nonpresence or in comparing the ESAA funded schools with those not ESAA funded there appears to be a difference in attitudes and perception in the way the faculty and students treated minority students.

Mr. **Jennings**. In other words, it is contradictory.

Dr. **Evans**. I did take note, however, that the level was generally high in both the ESAA and non-ESAA schools. It could be interpreted in one of two ways: Either the general inter-personal atmosphere in both the ESAA and non-ESAA schools was high and, therefore, that is not the problem.

Therefore, there is not that much room for the program to make great improvement or it could mean our measures in that area may have been much more gross and less sensitive than in the initial study.

I personally would depart from the precise data I have reported here. I would be inclined to reflect the judgment Dr. Rhodes made earlier, that the inter-personal relations aspect does appear to be important but it doesn't show up in the second evaluation the way it did in the first one.

Mr. **Jennings**. Would you comment on the inconsistency as to the finding of academic achievement in the first and second evaluations.

Dr. **Evans**. Again, I wouldn't characterize it quite that way. As I reported in my testimony, the data from the most recent and more rigorous evaluation failed to reveal any achievement gains on the part of students in the ESAA schools as compared to students in comparable non-ESAA schools for the first two years of the program. But it did reveal a substantive difference between the two groups favoring ESAA students in the third year of the program. The favorable interpretation of that would be, in our judgment, based on two factors. That is, by the end of the third year of this program, it seems reasonable to assume the program has become more efficient, effective, and mature, therefore, more capable in bringing about results that were noted in the most recent third year.

Another thing which has happened during that time is that there has been a greater difference in funding levels between the ESAA schools and the non-ESAA schools. One of the things we found at the beginning is after the ESAA schools were designated for this study by random choice, we found that some of the local school districts actually found funds from other sources to increase the funding levels of the non-ESAA schools thus obscuring the funding level differences. That disappeared over the two years of the study so when you look at the difference between the funding schools and they are blurred but sharpened by the third year. By the third year, you have three things happening. Number one, clear funding differences between the controlled and treatment schools. Number two, the program is in a third year of experience and, thirdly, there are achievement differences beginning to be shown.

Mr. **Jennings**. Your findings, as just expressed, seem to be much stronger than your prepared statement.

After looking at your statement, which shows $9 million has been spent on the evaluations, the question came to mind whether the money was being well spent.

Dr. **Evans**. The Emergency School Aid, unlike many other Acts which the Office of Education administers, provides a one-percent setaside for administration purposes. The sum total of money mentioned was not the amount of money for this study but will cover other studies which will be reported later on other aspects of the Act.

I guess my suggestion to you and the committee would be that it is not the case that the negative finding is finding nothing.

If we had not found the third-year data that we did and we had uniformly negative findings, that would be an important finding for us in the Office of Education and for the committee as well to know about. We have discovered those findings through a sophisticated evaluation which involves a lot of money. It involves attitudes of students and staff over three years of experience. My conclusion would be that spending slightly less than one percent of the money spent in the Act to find out how it is working in both achievement and nonachievement areas is a useful Federal expenditure in making judgment as to the usefulness of the program.

Mr. **Jennings**. It is my understanding Title I has the same type of set aside of funds for evaluations. The question has to arise if the Congress is looking at these Acts for renewal and the Congress wants to know what type of changes should be made, there seems to be a lack of direction from these evaluations on where to go. There seems to be a little bit of, "well, on the one hand, but, on the other hand" type of thing.

Maybe the purpose of the evaluations which you are doing is different than what Congress intended. Maybe you are looking at it from the viewpoint of establishing longitudinal data to study the long-term effect of desegregation and so forth. It appears we are not seeing from your evaluations a clear pattern on how this legislation should be re-shaped.

Dr. EVANS. The evaluation has shown during the first two years there was no evidence of effect on achievement but during the third year there was. That is not an interpretable finding. As to the implication for legislation, as has been testified already by Mr. Tatel and Dr. Rhodes, the administration has not settled on its recommendations yet, therefore, we are not free to put those forward or to make a great deal of our own thrust but I would say that these findings do, in fact, point in the direction that I would think ought to be useful for the Congress and the committee. They indicate the program is now beginning to have an effect on one of the major purposes of the law and that ought to be gratifying to the Congress that the money is being well spent and it also suggests in another area, student attitudes, there may be some suggestion the program may not be having the effect desired, therefore, that is an area for possible legislative modification.

Mr. JENNINGS. Do you believe there could be a difference in findings on ESAA as compared to the earlier findings on the Emergency School Aid Program in that there has been such a heavy emphasis on basic skills in the administration of ESAA whereas that was not true in the Emergency School Aid Program?

Dr. EVANS. That could be. There are other differences which could also account for it.

Mr. JENNINGS. Could I have Dr. Rhodes and Mr. Jordan put on the record their understanding as to whether the regional offices are encouraging applicants to put an emphasis on basic skills or are they leaving it up to the applicants?

Dr. RHODES. No. They are not encouraging the use of the funds for basic skills.

Mr. JENNINGS. I am still hearing from people, particularly in the Midwest, that the regional office people are making it known, the way the applications are approved is if you put an emphasis on basic skills.

Mr. JORDAN. We certainly hope that is not true. The training programs we have for regional staff both in writing and the oral training we do, we have made it very plain that the system we have is for a school district to identify their needs and objectives. I am not aware of any program officer deliberately saying you have to have basic instruction. We did that the first year because the Secretary directed us to. That was changed after the end of the first year. We certainly hope that is not true.

It is true, though, that when school districts conduct a needs assessment of the problems they face when they desegregate a school, most of their problems revolve around educational matters and that revolves around basic instruction. When a school district has a newly desegregated student body, the things the advisory committee and the faculty look at is the curriculum of that school, and a new support system and training to do that. That often falls within the area of basic instruction. But that is not what we are saying they must do. It is what most school districts are saying we must do.

Mr. JENNINGS. Since this memorandum putting an emphasis on basic skills did go out and was retracted, I think you still find in the minds of local administrators when, they have to go before the panel review, that what people are looking for is whether there is an emphasis on basic skills. A lot of things are in the minds of people which are not necessarily in regulations. Sometimes, even though something is retracted, you have to affirm to people other things can be funded also. For instance, it is my understanding from the Racine, Wisconsin school district they understood the way to get an application approved in the Chicago regional office was to put an emphasis on reading and math regardless of what they felt their needs were.

My last question has to do with the Dallas situation. What is the status of that legal memorandum you put in the Federal Register as to school aid to students in New Mexico and Texas?

Mr. JORDAN. The notice of clarification we put in the Federal Register defines the term, a plan approved by the Secretary is adequate under Title VI for desegregation of minority groups was put in to clarify the issue. It happened in Dallas the regional office did place a different interpretation on that.

When we discovered it, we published a clarification.

The question as to what we will do with these districts this year has not been determined. There were 39 school districts involved, all small. Of those, 11 so far have been successful in establishing eligibility. Twenty-eight haven't been able to do so yet. Of that group, assuming there was an eligibility problem, they couldn't be funded.

A recommendation has gone to the Secretary as to how to treat the other 20. A decision has not been reached on that. We expect it momentarily.

Dr. RHODES. Dr. Evans, I don't think mentioned two in-depth studies in connection with this study which are certainly very valuable to our office as to what is going on in the district. It is incumbent to take the findings. I agree a negative finding, you may not like it, but it is a finding. It is also done from someplace outside the office itself. We do plan to make use of the findings of the studie we have.

Dr. EVANS. I would like to add to that: If there is any dissatisfaction or displeasure as to the content or focus of those evaluations, I would like to solicit any recommendations as to future efforts in this area and to again just apprise the committee, we have other activities going on now, evaluation studies dealing with the non-profit segment of the program, dealing with educational television and magnet school programs.

But, again, a focus on the basic schools arose because of the fact we were confronted with the schools on their own, for whatever kind of decisions they made were pressured to put the substantial amount of money into that area. It seemed to make sense as to the outcomes.

Mr. Jennings. The constant frustration of the committee members is they receive evaluations subsequent to the enactment of the legislation. The most important thing you can do is to provide them with evaluations which deal with programs to be renewed next January, February and March, by no later than January 1st.

Dr. Evans. That is a problem I am working hard with dealing with. I might mention, gratuitously, one of the major problems we face, in addition to our own problems in scheduling, is the matter of clearances and reiews which relate to efforts to reduce the data burden. That problem has become a major one.

Mr. Jennings That was discussed in our paperwork hearings.

I want to explain to Dr. Rhodes and Mr. Jordon the nature of these questions. This program has not been reviewed for a long time. Therefore, it is necessary to go into this in as much detail as possible. This has been a difficult program to administer because of the political pulls and tugs. When you deal with integration, it is not an easy program.

You have done an excellent job. I want to commend you.

Mr. Cross.

Mr. Cross. We will submit some questions.

Mr. Jennings. There will also be other questions the chairman will submit for the record.

(See Appendix 10.)

Mr. Jennings. Thank you.

[Whereupon, at 12:05 p.m., the subcommittee was adjourned.]

PART 4: EMERGENCY SCHOOL AID ACT

WEDNESDAY, JUNE 15, 1977

House of Representatives,
Subcommittee on Elementary, Secondary
and Vocational Education,
Committee on Education and Labor,
Washington, D.C.

The subcommittee met, pursuant to notice at 9:40 a.m., in Room 2175, Rayburn House Office Building, the Hon. Cec Heftel, presiding.

Members present: Representatives Heftel, Mottl, Le Fante, Weiss, Quie, Buchanan, and Pressler.

Staff present: John F. Jennings, majority counsel; Christopher T. Cross, minority senior education consultant; Nancy L. Kober, staff assistant.

Mr. Heftel. Good morning.

Our chairman has been detained.

I would like to ask James Hooten, Dr. Shelton, Dr. Freeman, if they will come to the desk.

Since we have the names in order of no particular significance, why don't we start with Mr. Hooten, and then Dr. Shelton, from Hillsborough County, Florida, and Dr. Freeman, from Shaker Heights City School District in Ohio.

Mr. Hooten is president of Region IV of the ESAA Grantees Association.

Mr. Hooten.

STATEMENT OF JAMES L. HOOTEN, PRESIDENT, REGION IV ESAA GRANTEES ASSOCIATION; ACCOMPANIED BY: DR. ROBERT BUSHONG, DR. BILL HOLCOMBE, MRS. HAZEL FOURNIER, DR. JOSEPH ATKINS, DR. SETH O. DILLON, AND DR. JAMES E. McLEAN

Mr. Hooten. Good morning, Mr. Chairman.

I want to introduce several people who are with me who will be able to respond if it is all right with you to questions you may have. These are members of our association and they are seated here just behind me. I would also like to ask permission that their written statements be inserted in the record. (See Appendix 8.)

Mr. Heftel. Why don't the members stand up for identification purposes so we know who you are.

Mr. **Hooten**. Dr. Robert Bushong of Columbus, Georgia; Dr. Bill Holcombe of Columbia, South Carolina; Mrs. Hazel Fournier of Mobile, Alabama; Dr. Joseph Atkins of Louisville, Kentucky; Dr. Seth Dillon, Magnolia, Mississippi; and Dr. James McLean of Tuscaloosa, Alabama.

Mr. **Heftel**. You are most welcome to either read your statement in total, it will be made a matter of the record regardless, or comment upon it as you see fit to the group, and then we will later go into questions.

Mr. **Hooten**. Thank you, Mr. Heftel.

I think my remarks are going to be made off the cuff and extemporaneous rather than read.

First, I want to say that we, who are here from Region IV, are here because of our deep concern and interest in ESAA, and we feel that great results have been achieved in our region.

We think that this is one of the greatest social changes that has ever taken place in American life because we have seen a real revolution take place in the South in human relations, and we think it is happening because of education to a great extent, and ESAA has helped to make this possible because it has helped to slowly but surely close the gap that exists between various racial and ethnic groups in our region.

We have seen dramatic things happen to children, and, of course, our main interest is the fact that children's lives are being affected very importantly, and their skills in education are being improved. We have seen test scores that have been gradually improving over the 4 years that ESAA has been in operation. We have seen some dramatic illustrations of this. For example, in South Carolina there was a little black child in a rural South Carolina area who came into an ESAA class very shy, unable to keep up with his regular class, about a year and eight tenths behind, and then when he was in this ESAA group at the end of the year, he had improved 2.8 years in 1 year and was the head of his class. We think that is a dramatic illustration of what can happen. His self-image had changed completely.

In Chatham County, Georgia, a class in remedial math was learning to understand basic concepts, and as a result they were able to do mathematics. A lot of people don't realize that math is really based upon the ability to read. A piano class in our organization in Chatham County discovered a 6-year girl who is virtually a genius in music, and has taught her to develop her abilities, and she is now playing the piano, and playing some amazing compositions at age 6.

The Steel Drum Band, the Mecklinburg Youth Council in South Carolina is a good illustration of what can happen to take children off the streets and give them something really constructive to do in their communities.

We see a group of students in the Dunbar Junior High Laboratory in Mobile, Alabama who developed artistic abilities through a reading laboratory, and they were doing a mural in their school that got acclaim from their community.

A magnet school in Sumter, South Carolina, for example, enrolls children in classes that they never would have had an opportunity to do, such as in violin, dramatics, art, dance and other cultural activities, but we think that one of the greatest cotributions that ESAA has made is probably in the improvement of human relations because now that children are being taught how to get along together and accept each other because of their abilities and accept each other regardless of race or class, that this has improved human relations greatly in the South, and we think that this kind of progress is the kind that we want to see continue in ESAA.

We realize that the public in the South has slowly but surely come to accept school desegregation, and now we are seeing some very important changes take place in public attitudes where they are beginning to support public education in a great way.

In Chatham County, in Pearl Smith Elementary School, one black parent was motivated to attend a GED class in order to help her child to learn to read and write. We feel that although these first generation problems of school desegregation in terms of violence and disruption have been settled, even if they have been settled uneasily or superficially in some instances, that the problems could really erupt again if second and third generation problems of closing the gaps and upgrading the quality of education are not adequately faced and dealt with.

Because minorities in the South have been promised equal educational opportunity through desegregation, we feel they must not be led or held back in their efforts to gain their efforts in education, equality in jobs, and other life's opportunities, but they must be led away from the poverty welfare systems and syndromes that is really costing us a tremendous amount of money in our country. We feel that people need to be given productive lives, and ESAA is helping this to happen more than any other educational program we know of.

We have some recommendations we would like to make to you distinguished gentlemen, and these are not said just because we are from Region IV. We hope that these will apply to the whole ESAA effort for our country because we are just as eager to see the newly desegregating systems get help and aid as we are. We are very sympathetic with those problems. We want to see the problems dealt with in the North and West, but at the same time we want to see the programs that have begun in the South continued until the problem is resolved adequately.

As a result of our experience, we have these recommendations we would like to present for your consideration.

First, to increase the level of the funding for State apportionments, because over the past 4 years we have had a great increase in inflation which has taken away a lot of the effects of the financial contributions to ESAA. We think that instead of $187,050,000 for general State apportionments, that ESAA should now have about $250 million in order to meet the basic State needs.

In Region IV only about 25 percent of the districts that are eligible are getting funds to help them with the problems of desegregation, and in Region IV about double that number want help.

We heard yesterday, and we have information to the effect, that one year $80 million in funds were requested but no funds were available to meet those needs.

Some of the systems have sincerely and earnestly tried to comply with the law but now they are running into difficulties. We feel that the Federal Government should be helpful and sympathetic in encouraging the school systems and communities to continue to desegregate in good faith.

The people of the South want to do this, and if given that opportunity, they will. Many of the school systems are being forced to cut back their efforts because there is just simply not enough money, and realloctions that we used to get because other regions aren't using the money aren't coming through, and we can't deal with difficult second generation problems.

The people in the North and the West are soon going to find the same problems that we are dealing with.

Those second generation problems are getting down to the nitty-gritty of really closing the gap of 300 years of cultural differences that have developed among people, and those are the problems that are the hardest to deal with. We feel that those won't be resolved in less than a generation, and we feel that we have got to have the help if it is going to be done.

We think that the name of the Act should be changed to either eliminate the word "emergency" or to redefine it because this is not going to be done in like 4 or 5 years. It is going to take some people, say, as many as two generations to really, as the court said, root out desegregation, root and branch.

Segregation has left a crippling effect upon our communities because so many people don't have the basic skills to work and to do the things that help them to be productive citizens of our community.

Thirdly, we think that we should retain the nonprofit organizations in the Act because these grass root organizations have helped to get public support that was urgently needed, and continues to be needed because in the South there has been such an erosion from public education by people going to private schools, we think the public has felt that integrated schools could not be equal, and now they are finding out that quality education is possible and is happening through ESAA efforts.

Superintendents have encouraged nonprofit organizations to apply for funds, and have welcomed their efforts to help get public support in the South. We think that direct grants to grantees ought to be made, rather than shifting to block grants to States, because most school superintendents want to deal with the Federal Government and Federal administrators, rather than dealing with their State people in these matters. They want to avoid the middleman approach.

Next, we think that there should be 3-year funding cycles because you get a program started, and 4 or 5 months after you get it started, you have to spend about 2 months preparing a new proposal or application which takes too much of the staff to compile the information and get it in, and we can't concentrate our efforts enough on our work during the application period; so we think that 3-year funding cycles would certainly be better. We could save moneys by being able to retain staffs.

Like it is, people are very uncertain as to whether they are going to have a job from year to year, and we think that they need to know this. We could purchase supplies at a savings, for example, if we had a 3-year program. We think the effectiveness of our programs is being undermined by the fact that we have single year funding programs.

We also think that the statistical point system should be revised, and that moneys should be distributed more equally. For example, large districts ought to be competing with each other, and middle sized districts competing with each other, and small districts competing with each other, rather than all of them competing with each other, because the present point system weights the funds in favor of the large school districts because one of the important points is the number of students that that school system has in terms of minorities, and that is a weighted factor which gives them an advantage. We think the problem exists on all three of those levels, and should be met on all three of those levels.

Finally, I want to say that we feel that ESAA has created and is creating a revolution in education, and we think that the program should be continued until the job can be completed, not only in the South but throughout the whole of America. We feel that the civil rights revolution of the 1960s, the Civil Rights Act, and the years of effort would be wasted if ESAA were not going to be continued long enough to finish the job.

We feel that we need your help in order to complete the task.

If you have any questions that you want to ask of me or any of these people who are seated behind me, we will be glad to answer them and try to give you our straightforward, candid answers without beating around the bush.

[The full statement of James Hooten follows:]

REGION IV ESAA GRANTEES ASSOCIATION
11 West Park Avenue Savannah, Georgia 31401 912/236-0202

TESTIMONY OF

James L. Hooten, President

Region IV ESAA Grantees Association

11 West Park Avenue

Savannah, Georgia 31401

To The House of Representatives Subcommittee on Elementary,
Secondary, and Vocational Education

June 15, 1977

EMERGENCY SCHOOL AID ACT

REGION IV ESAA GRANTEES ASSOCIATION
11 West Park Avenue Savannah, Georgia 31401 912/236-0202

Four Years of School Desegregation Under ESAA

Educators and citizens have been able to accomplish some amazing results in the past four years of funding under the Emergency School Aid Act (ESAA) in public school desegregation in the eight Southeastern states of the U.S. Office of Education's Region IV.

With ESAA funds the gaps between racial and ethnic groups that are due to discrimination and isolation have been closing slowly but surely.

Children have been improving in basic skills, such as reading and math. Test scores in school districts across the region have shown the great disparities between majority and minority children generally in the base years of school desegregation, but have also shown gradual improvements for minority students while majority students have held their own or have improved slightly in the process.

Dramatic improvements have been made on occasions, such as when the black elementary male student in a rural South Carolina School District came into an ESAA class at the beginning of a school year with a poor self image and far behind his class in reading achievement. By the end of the year he had discovered a new self-confidence and ability, so that he showed a gain of 2.8 years in testing and was at the head of his class.

In Chatham County, Georgia, a class in remedial math was discovering how to do math problems because they were learning to read well enough to understand math concepts.

A piano class conducted by the Chatham Council on Human Relations in Savannah, Georgia, discovered the genius of a six year old black girl named Tatia who has amazed everyone with her musical ability. She has discovered that she is somebody with a future because of ESAA.

EMERGENCY SCHOOL AID ACT

The Steel Drum Band of the Mecklinburg Youth Council in Charlotte, North Carolina, nas demonstrated how to take school drop outs and students who were "out in the streets" and make them into a delightfully entertaining and talented group of musicians.

Students in a Junior High Reading Laboratory in Mobile, Alabama, discovered artistic talents they had never had a chance to develop so that they painted a wall mural about stories they were inspired to read and their work was written up in the local newspaper.

A Magnet School in Sumpter, South Carolina has attracted students from the entire community to share exciting activities in drama, dance, violin and other cultural activities, thus demonstrating to the entire community that a quality education can be provided to all students regardless of race, class, or ethnic origin.

Perhaps the greatest contribution of ESAA in Region IV has been the improvement in human relations among students, faculties and parents. Interracial cooperation has been demonstrated in countless schools and communities throughout the area. The excellent program under Dr. Gordon Foster at the University of Miami, Florida, has led in helping teachers and administrators learn the ways of human interaction that have enhanced school desegregation. Such programs have enabled Southerners to become leaders in resolving racial conflicts and in preventing violence from occuring, as well as helping citizens learn to live, work, and learn in harmony.

More of the public has come to accept and now to support desegregation, although it has often been reluctant in accepting change and slow in adjusting. However, community surveys show that progress is being made in gaining public acceptance and support for desegregated education.

One black parent in Pearl Smith Elementary School in Savannah, Georgia, motivated by the efforts of a white Home-School Coordinator in an ESAA project enrolled in a G.E.D. Program to be better prepared to help her children learn. That is real progress toward a higher quality education for her children.

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Although first generation problems of school desegregation in terms of violence and disruption have been settled, even if uneasily or superficially in some instances, the problems could erupt again with even greater force if the second and third generation problems of closing the gaps and upgrading the quality of education are not adequately faced and dealt with.

Minorities in the South have been promised an equal educational opportunity through desegregation. They must not be mislead or held back in their efforts to gain equality in education, jobs and other opportunities of life. They must be led away from the poverty and welfare syndrome that is costing this nation a tremendous price to become productive, contributing citizens to the American way of life.

Basic Recommendations for the Future of School Desegregation

As a result of our extensive and firsthand experience with school desegregation and with ESAA, we advocate the following essentials to the Sub-committee as it considers the past and future of ESAA and equality of educational opportunity for all children:

1. Increase the level of funding for State Apportionments from the current level of $187,050,000 to $250,000,000 immediately, since the effects of inflation and the increase in needs for funds throughout the nation have slowed down the effectiveness of school desegregation in the past four years.

According to information from the Region IV U.S. Office of Education, only about 25% of eligible school districts are receiving funds to help them desegregate. About double that number have applied, but no funds are available to assist them.

Some of the systems that have sincerely and earnestly tried to comply with the low and to desegregate are now being held back by newly imposed Office of Civil Rights regulations. Federal commitment to aid in every way possible the desegregation effort is essential if the process is to continue in the South.

Many school systems and other ESAA programs in Region IV are being forced to cut back their efforts because of the growing effects of inflation, since general state allocations have not been increased each year to keep up the programs that have been started. Furthermore, re-allocations that funded some programs for one or two years are no longer being received in Region IV due to other regions needing or using the funds.

We hasten to point out that we are sympathetic with the needs for fund in newly desegregating systems and feel that they should be provided in adequate amounts. This need not be done to the detriment of these programs which have done effective work and need to meet the more difficult second generation problems.

2. Change the name of the Act either to eliminate the word "emergency" or to redefine it. Second and third generation problems of school desegregation cannot be resolved quickly. They will require atleast a full generation and perhaps longer since the problems were 300 years in the making. Social and educational change cannot be expected to take place in school desegregation in a few years. Even the Vietnam War emergency lasted over 20 years.

The deep-rooted problems caused by so many years of racial and ethnic discrimination and isolation will only be resolved with determined patience, perseverance, and adequate funds.

3. Retain non-profit organizations (N.P.O.s) in the Act on the current percentage of funding (8%), since they have provided the essential grass roots and public support needed for desegregation.

A deep-South Superintendent in a large school district has repeatly said that his district could not have successfully desegregated without the support of two local N.P.O.s that gave much needed assistance in rallying parents and citizens to help in the process both in the beginning when feelings ran high and in the continuing effort since.

Other Superintendents are looking for and encouraging local non-profit organizations to apply for funds to assist the districts in numerous ways. Many responsible N.P.O.s have given the help that have made the difference in peaceful, constructive desegregation efforts and chaos.

4. Continue direct grants to grantees rather than changing to block grants to the states. Most school superintendents in the Southeast prefer to work directly with the federal government in applying for and administering grants. They feel that ESAA offers the flexibility needed to meet the problems they face in their school systems. They prefer working with federal rather than state administrators in the application for and administration of funds, since they feel that federal administrators are more sympathetic and supportive of their efforts to desegregate their schools. They also wish to avoid the state "middle man" approach to federal grants and the state politics involved in obtaining funds.

5. Institute three-year funding cycles for ESAA grants to avoid annual efforts that waste time, energy, and money. The present annual funding cycle consumes about two months per year in the application process that prevents the staff of projects from carrying out their regular duties effectively. This is due to the lengthy and time-consuming process of preparing an application.

Often projects are late in the program year in being notified of grant awards, which leaves employees in a state of grant uncertainty and insecurity over jobs. Since some organizations lose valuable employees when funding is announced late in the school year, it would be much easier to attract and hold qualified persons to positions of employment if greater job security were provided in three-year funding cycles rather than one year cycles.

Program effectives is undermined by the one year funding cycles, whereas three years would give a project time to develop an effective program that would achieve good results. Three years is a minimum length of time to expect reasonably good results to develop a program.

6. Revise the statistical points system so that monies will be distributed more equally in each state among school districts applying for funds. The present system favors the larger districts, since the number of students is a weighted factor in determining statistical points. Presently large, medium and small school districts compete with each other for a share of the state's allocation. This gives an unfair advantage to the larger systems which are better staffed for preparation of applications and in the numerical number of minority students enrolled in the base year.

We propose that large systems compete in a category for a certain amount of the state's allocation. The same plan would apply to medium and small districts.

Summary and Conclusion:

Racial and ethnic discrimination and isolation took place in American life over a period of about 300 years. It is unrealistic to think that those problems can be dealt with or resolved in a few years in what has been termed an "emergency". The emergency will not be over in less than a generation or perhaps longer. Southerners have accepted our responsibility to face and deal with the problem, as we have willingly shown, but we need help to complete the task. To do less is to make a farce of the Civil Rights Revolution of the 1960, the Civil Rights Act, and the subsequent years of intensive effort for school desegregation. We need your continued and enlarged support to do this very difficult but greatly rewarding task of human rights and justice. We cannot, we must not and pray that we will not default in this great cause for equal educational opportunity for all students. Please give us your continued support.

Mr. HEFTEL. Thank you very much, Mr. Hooten. I think there will be some interesting questions and observations on your testimony, but I think we will have all of the panel speak and then address ourselves to you.

Dr. Shelton, the microphone is yours.

STATEMENT OF DR. RAYMOND O. SHELTON, SUPERINTENDENT OF SCHOOLS, HILLSBOROUGH COUNTY, FLORIDA; ACCOMPANIED BY: E. L. BING, ASSISTANT SUPERINTENDENT OF SCHOOLS

Dr. SHELTON. Thank you, Congressman Heftel.

Ladies and gentlemen of the audience:

I have with me, Mr. E. L. Bing, and with your permission, Mr. Bing will come up with me. He has been through this process with me and is as instrumental as any man in Hillsborough County and has a national reputation in this field.

First, on behalf of the board of education, the 65,000 residents of Hillsborough County, Florida and 116,000 public school pupils, I commend you for seeking from the local educational agencies information relative to accomplishments, problems, and need for changes in the Emergency School Aid Act program.

My statements and comments will be brief because it does not take too many words to say: We needed help from sources in addition to local and State in 1971 when we received a Federal court order mandating that the school district move from a dual to a unitary system; we need help now in order to continue the fine and exemplary programs begun with Emergency School Aid Act funds that have contributed immensely to the success of our desegregation efforts; we will continue to need help through the Emergency School Aid Act to supplement our local resources in order to reach our ultimate goal of true integration which is an awesome, tedious, and monumental task; we need help now and we will continue to need help through the Emergency School Aid Act to supplement our local resources in providing equal educational opportunity for the thousands of students in our district whose home language is other than English; and where the major language spoken in the home is comprised of 47 different languages.

We need help now and will continue to need help from sources in addition to local and State in order to provide adequately for the vocational needs and the building of salable skills—which are expensive—to the students of our district.

You might not be completely familiar with the district I am talking about. Let me say that Hillsborough County School is located on the west coast of Florida, which is the best coast of Florida, in case there is any question about that. Tampa is the hub of our school district.

Mr. HEFTEL. Just in case you are interested, even though I am from Hawaii, my parents lived in Tampa for approximately 10 years, so I do know the location. We are not strangers.

Dr. SHELTON. I had occasion to spend a couple of weeks in Hawaii last fall and, believe me, you come from a great area as well.

Our census is approximately 650,000 now. This county is in the business of manufacturing, shipping, tourist trade, mining and varied agriculture area. We are probably the most diverse in Florida, and we have diverse natural resources, economic disparities and there is a great difference in the degree and extent of our educational attainment.

Our staff feels that we are the most cosmopolitan area in Florida. We have successfuly simulated together a number of citizens with various national backgrounds. We are ranked as the 22nd largest system in the nation, serving 116,000 pupils K through 12. Our population is 20 percent black, and about 12 percent Latin origin. We are not affluent at all.

Our school board can afford only to spend about $1,100 per pupil, which is considerably less than even the State average spends per pupil and significantly less than the national average. I notice particularly that there are several congressmen from north of the Mason-Dixon line here and I am sure that $1,100 per pupil expended will astound you.

My testimony must include a few remarks relative to the implementation of our Federal court ordered segregation plan. I might say that I will live my 11th year in Hillsborough County in July, so I was there before desegregation and during and now after.

Mr. **Heftel**. It is still kind of during.

Dr. **Shelton**. It is still kind of during, I would say yes.

On May 11, 1971 the U.S. District Court ordered the Hillsborough County schools to completely desegregate all of its 130 schools enrolling over 105,000 pupils and to do that by the opening of the 1971-72 school term. The court further ordered that the plan be submitted by June 15, and set a hearing date for that date.

Although our school district covers in excess of 1,000 square miles, the court mandated that in developing the plan, the district begin with the proposition that an approximate ratio of 80 percent white and 20 percent black in all 130 schools would be most acceptable to the court. About 1,000 square miles approximates the size of the State of Rhode Island. That is our school district.

The Hillsborough County School District did develop such a plan following the guidelines of the court and this plan was approved by July 2, 1971. We did it with the help of citizen involvement and a 156-member citizens committee including 30 students helped us to build the plan.

Mr. Bing, who is with me, was the chairman on our staff and helped develop that plan.

Specifically, our plan includes clusters, pairs, geographic and satellite zones between black and white schools, and we have been completely desegregated and we do considerable cross busing. We spend $6 million a year in transportation. $2.5 million is specifically for cross busing to achieve the racial balance.

The transition from a dual into a unitary school system has taken place without demonstrations, protest marches, closing of schools, schools being patrolled by policemen, school bus security monitors, bloodshed and the development of racial conflicts and confrontations.

We have been, I guess, rated or considered by many outside observers and sources as probably the most successful major school system in the United States, and have been since 1971.

I think much of the accomplishments are attributable to our successful implementation of the human relations program and the successful operation of an Information and Rumor Control Center. These programs were implemented with emergency school assistance program funds, ESAP program at that time.

We met our objectives successfully of the human relations program which were: The reduction of racial tension and confrontations, the establishment of activities promoting interpersonal relationships, attitudinal and behavioral understandings and appreciation for differences in race, culture, backgrounds and circumstances.

The accomplishment of these objectives contributed to our desegregation success. Our Information and Rumor Control Center provided the mechanism through which we provided the community accurate and complete information without delays.

We think we have an exciting remedial education program in reading and mathematics coupled with a tutorial program which were implemented successfully with Federal ESAA funds. The major objective was to reduce the academic gaps resulting from racial isolation and this objective we think has been attained. The achievement successes of these program participants contributed to their transition and success in an integrated school setting.

We had a Comprehensive Staff Development and Training Program that was implemented with Federal funds. This is extremely important to us. We had a curriculum revision, individualizing instruction, strengthening teachers' basic teaching skills, human relations skills for teachers, administrators, bus drivers, luncheon personnel, PTA members, and community members were achieved in this component and all of this contributed to our success.

The Pupil Personnel Diagnostic Team was funded with Federal funds and effectively provided services to children experiencing learning difficulties compounded by school desegregation. These difficulties accentuated themselves in a desegregated setting and it was this component's efforts that made the lives of these youngsters much better.

At the beginning of this school term, 1976-77, there were 3,520 students in grades 1 through 12 who came from home environments in which English was not the dominant language. There were large-scaled differences in educational achievement as measured by the Comprehensive Test of Basic Skills and the Metropolitan Achievement Test in all school skills areas between students from non-English dominant home environments and students from English dominant home environments. There was a steady increase in the size of the educational achievement deficits of students from non-English home environments as students' grade level placement increased. With the federally funded Emergency School Aid Act Bilingual Program we were able to attack this problem and all preliminary indications reflect gains in alleviating these deficits.

Through Emergency School Aid Act funds, we were able to employ learning specialists—expert teachers with experience in curriculum revision, methodology, and experience working with children from varying racial and cultural backgrounds. The task of this program was to provide training for teaching staffs in the aforementioned areas. This program was so successful that when cutbacks were experienced in Emergency School Aid Act funds, the school district assumed full financial responsibility for the operation of the learning specialists' program.

In summary, the accomplishments of the Emergency School Aid Act program in Hillsborough County's School District have been excellent. These programs have provided tremendous assistance in the successful implementation of our desegregation plan which moved this school district from a dual to a unitary system with racial balance in all of its current 133 schools. This racial balance is reflected not only among students, but among administrators, teaching staffs, and all levels of employees. These programs have aided in establishing a positive atmosphere for learning and have contributed immensely in the social adjustments of students, parents, and the community.

Further, the Emergency School Aid Act programs have assisted in providing the resources to help us maintain and improve the quality of our educational programs throughout the district. While reports are reflecting that test scores throughout the nation are going down, giving us all great concern, tests results in Hillsborough County for the past 2 years are going upwards, and presenty we are at or above the national norms as reflected by the Comprehensive Tests of Basic Skills. The following news article from the Tampa Tribune of June 8 describes these test results.

Mr. Heftel. That will be useful and inserted in the record.

[The article follows:]

County Students' Scores On Tests Up Significantly

By BRAD BOLE
Tribune Staff Writer

Hillsborough students scored average, and in some cases better than average, on a basic skills test administered nationwide, school officials said yesterday.

The results also are significantly better than those recorded last year by Hillsborough students, School Supt. Raymond Shelton said.

HILLSBOROUGH'S first through tenth graders scored higher than the national average on 17 of the subtests given for reading, grammar and math, at the national average on five subtests and below the national average on seven subtests. The test was not given to eleventh and twelfth graders.

The results are from the Comprehensive Test of Basic Skills given to students in March.

Students in first through sixth grade scored at or above the national average on tests given for reading; language usage, which includes grammar; and mathematics.

Seventh and eighth graders scored below the national average in reading and language usage, but at or above the national average in mathematics.

NINTH GRADERS scored above the national average in reading and language usage, but below the national average in math.

Tenth graders scored at or above the national average in reading and math, but below the average in language usage.

Last year, second graders scored below the national average in reading, third graders scored below the national average in language usage, fourth graders scored below the average in both reading and language usage, and fifth and sixth graders were below the national average in all three areas tested.

Seventh, eighth and ninth graders scored below the national average in all three areas last year and tenth grade were below the national average in language usage and math.

JOHN HILDERBRAND, Hillsborough director of pupil assessment, said the test results include the scores made by the 12,000 Hillsborough elementary students recommended for summer school this year because they are reading at least a year below their grade level.

The results also show that anywhere from 6 to 35 per cent of the elementary students scored at least a year above

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grade level on the different subtests, he said.

The actual number of students reading at least a year above grade level has not been computed, he said.

Shelton attributed the increase in test results to a concerted effort school officials have made to improve the elementary school program.

DURING THE PAST three years, more emphasis has been placed on English and math skills by setting aside major portions of the day for the study of these subjects, he said.

In addition, the summer school program, in which students' deficiencies are pinpointed and an individualized course to correct them is prescribed, has caused some improvement in the scores, he said.

Other changes that might cause the improvement in test scores include the federal impact program in which principals can hire either two aides or a teacher to reduce class sizes, he said, and a promotion policy that eliminates social promotions.

Dr. **SHELTON**. We are very proud of that contrary to what some people think occurs with desegregation.

Problem Areas and Program Changes.

The Emergency School Aid Act program is competitive and we find no major fault with this feature. We find no fault with this. Being a large school district—

Mr. **HEFTEL**. Do you think we should adopt the NCAA classes of competition?

Dr. **SHELTON**. We think we will remain competitive with any class but I will leave that to your judgment.

The programmatic process of project applications is fine, such as paneling, resubmissions, et cetera. The time line on official notification of project acceptance or rejection, along with the various "Legal Holds" that we all seem to get at times, and clearances, creates problems with the various school districts.

For example, the Civil Rights Office should not wait until Emergency School Aid Act applications are submitted to them for review to begin studying that school district's Forms 101 and 102 information. Perhaps, during the fall of the year, a school district should notify the Office of Civil Rights of its intent to submit an Emergency School Aid Act application for funding.

We just submit a continuing application.

With the notice of intent, the Office of Civil Rights could begin its study of that district and so notify that district of its eligibility or noneligibility. The "Legal Holds" after the programmatic approvals create undue hardships on school districts for by Florida school law, school boards must reappoint or not reappoint its employees 8 weeks prior to close of schools.

Let me interject here. Since my testimony was prepared and sent to you, last night at our regular school board meeting—another aside, I left for this meeting by getting up at 2:30 this morning after the school board meeting last night—but at that meeting we had to eliminate the human relations program funded through ESAA funds in all of our 7th grade centers in the school district because of a cut received last week. The board had to take actions to reduce personnel by a cut at this date after we had reappointed these personnel. This means we have to absorb them in other programs in the school district. This just brings to light what I am saying here about the time lag in reemploying people and not releasing the cut.

We went ahead and employed people and we still haven't got the grant. When we got it, it was cut by $176,000.

As the thrust of school desegregation moves northward, there will be overwhelming pressures and competition for existing Emergency School Aid Act funds. Presently, as in the past, this program has been inadequately funded. Our school district, others in Florida and throughout the South, have met the great challenge, we think maybe reasonably successfully, and one of our greatest concerns is the adequate funding of the Emergency School Aid Act.

My fear is allocating these funds away from southern desegregated school districts to other school districts who are still talking about and getting involved in desegregation.

We must remember that desegregation is just the first step. It is the easiest step, what people may think, because it is administrative and mechanical in nature. It only involves moving people around in order to get a desired mix. Integration is a much more complex endeavor for it involves attitudinal and behavioral modifications, which takes long, hard, and tedious efforts. With that in mind, I conclude that we will need assistance beyond local and State resources for at least 10 years, and maybe two generations that Mr. Hooten spoke of.

Thank you very much for hearing me.

I and Mr. Bing will be very happy to answer questions about this. I have other information that we can discuss as to any of the programs we specifically have through ESAA funding in great detail with you.

Thank you very much.

Mr. **Heftel**. Thank you very much, Dr. Shelton.

We will now get the view from perhaps what we call the Midwest and North, Dr. Freeman from Shaker Heights, Ohio.

Dr. Freeman.

STATEMENT OF DR. MARK FREEMAN, DIRECTOR, FEDERAL-STATE RELATIONS, SHAKER HEIGHTS CITY SCHOOL DISTRICT, OHIO

Dr. **Freeman**. Congressman Heftel and members of the committee, I am most pleased to have the opportunity to express my concerns about the Emergency School Aid Act and to discuss its accomplishments in the Shaker Heights City School District, which I represent.

Within our school district, we have seen tremendous impact through programs funded under this legislation. If the school district is funded for the 1977-78 school year, it will represent the third year in which we have been involved in ESAA programming.

Let me state first that my personal experience and that of our ESAA Title VII director and her staff has left us with nothing but praise for the Office of Education and Region V personnel who are responsible for overseeing our present program. In all cases they have been positive, helpful, and we truly believe that they have not lost sight of the goal of helping boys and girls.

Our school district began a voluntary busing program in 1970 for the purpose of desegregating schools. The program has been most successful. We are constantly disseminating information across the country concerning our activities, and we have been able to expand the program and make it flourish because of funding under the Emergency School Aid Act.

I am confident you would agree that the desegregation of public schools in the United States is a national problem. It seems important at this time, in the development of congressional education policy, that the Congress look toward exemplary model programs of school desegregation and methods of overcoming the problems incident to minority group isolation, minority impacted, and minority isolated schools. Through ESAA activities in our school district we have been able to experiment and pilot special activities for minority children as well as develop a voluntary transfer program.

It is most heartening to speak before the committee as a practitioner as well as someone interested in school desegregation. Perhaps it is pleasing to be able to do this, because desegregation seems to be working in my school district.

I would invite all of you to join me in a tour of our schools and for lunch at one of our school cafeterias—I cannot guarantee what we will be serving that day—so that you can observe first-hand children studying and learning together regardless of color. In our school district, as in many across the country, desegregation has been a difficult and costly process. We are not without our problems. There is racial tension, but integration is working. Children play together regardless of race, the professional staff has begun to confront racial issues openly and honestly, and the community is pleased with the schools.

Just last Tuesday the community passed a 12-mill additional operating levy and a $4.65 million bond issue in support of the schools. Many might say that this would be an impossibility in a school district which is undergoing desegregation. It happens that both issues were passed by a margin of better than two-to-one. The community is pleased even to the point of volunteering their children to attend different schools in order to help racial balance within the school district.

Perhaps this story will lend some insight to the situation. In the fall of this year a family enrolled their son in kindergarten. Apprehension and anxiety were tremendous for the parents, as is often the case when a first child enters school. They had many of the concerns I do as a father: Will my child be happy in school, will he make friends, will he succeed? In an integrated system there is one more fear: Will my child get along with children of another color?

On the first day of school the child was asked, "How was school?" Like any child, he did not volunteer much information, and I am sure that is how your children are when you ask them what happened at school today. He just said, "Fine." At the dinner table he was asked if he had made any friends. He said, "Yes," and the parents could not rfrain from asking, "What color is your friend?" The boy looked at them a bit puzzled and said, "I don't know, but I'll check tomorrow."

I think this story typifies what can be done in working toward tranquil and rewarding experiences in a desegregated school system. However, the story did not just happen; it took the work of many people and the development of many programs. To highlight a few:

The development of resource centers staffed by teachers who help children through tutoring and enrichment activities;

Programs in which students as early as the first grade discuss racial differences;

Alternative education programs at the secondary level for minority and other children who are dropout-prone, poor school attenders, or discipline problems;

A program in which community relations people discuss issues with parents;

A well-orchestrated staff development program which focuses on human relations, race relations, and new teaching methods.

However, the school district faces many of the problems that are typical of those across the nation: institutional racism, low aspirations for minority children, evidenced by lower enrollment in advanced placement and honors programs; a disproportionate number of school suspensions and expulsions of minority students. The staff, students, and community will continue to work at solving these problems, hopefully with the future help of the Federal Government. Unfortunately for the children we serve, ESAA dollars may no longer be available.

The current ESAA regulations are very inequitable in terms of the size of the school district to be funded and its status with the courts. My school district has never been under court order to desegregate, nor have we forced students to transfer for racial balance. Instead we have instituted voluntary programs of a tutorial and enrichment nature, staff development activities, and voluntary busing.

However, current ESAA rules and regulations give preference to school districts by size as well as percentage of minority students, and it is well-known by other practitioners that if a school district is under court order to desegregate, it is an asset rather than a liability in receiving additional money under the Emergency School Aid Act.

It is ironic that what the future may hold is all ESAA dollars in my state will go to large cities which are under court order to desegregate. Districts which have dealt with this problem on their own initiative will not receive the support they need and deserve.

I am fully aware of the problems of those districts under court order, and I am sure that they are in need of funds. However, I am sure that Congress in its wisdom will see the necessity to fund experimental and voluntary programs as well.

It is my suggestion, therefore, that ESAA rules and regulations be revised to provide priority in funding to districts that have innovative voluntary plans and are not under court order and, further, the rules and regulations should promote equity among applicants regardless of their size and expertise in proposal development.

When I discuss the legislation with other ESAA recipients, they constantly mention the problem of one-year funding, and of course, that has already been mentioned by my colleagues on the panel today.

As you know, ESAA projects are funded one year at a time with no provision for renewal. It is my belief that this funding should be for a multiyear cycle rather than annually. Annual funding plays havoc with people's lives, personnel are not sure of jobs, parents are not sure that students will be able to participate in programs, funds are not used to their fullest because we must constantly compress our activities to shorter and shorter periods of time.

The one-year funding cycle requires tremendous work in proposal development. As soon as the staff has developed one proposal, they must begin to do another for the next year. It would be my suggestion that funding be for a minimum of three years. Of course I think provision for adjustment from year-to-year must be made. Probably only through multiyear funding are we going to be able to get good hard data on the evaluation of how programs affect children and the desegregation of the schools.

An additional concern I have about ESAA legislation is that funds cannot be expended for the transport of youngsters. I realize that this is a politically explosive issue. However, the Congress might consider a program that would defray the cost of transportation for racial balnce of youngsters at least in a voluntary desegregation program.

I would like to call your attention to photo copies of a few newspaper articles and a flyer which decribe the program in Shaker Heights. I think you will find them helpful and informative in explaining how the program has operated and the acclaim it has received.

In summary, I realize that it is the intent of Congress to serve as many minority youngsters as possible under ESAA legislation. However, the current scoring system which decides what school district shall receive ESAA funds could easily eliminate districts like Shaker Heights, because the entire State allocation could be used by one large city school district. Perhaps, in addition to changing the scoring system, additional funds should be appropriated, so that we can help to solve the national problem of school integration.

I would be glad to answer any questions about the operation of the ESAA program in my school district or discuss my concerns about the legislation.

Let me reiterate my invitation for the committee, or any members who so desire, to visit us and to see a successful program in operation.

[Attachments to statement follow:]

SUNDAY
PLAIN DEALER
CLEVELAND, APRIL 4, 1976

Busing, here and there

In Shaker, pupils laud voluntary integration

By Katherine L. Hatton

"The bus was late the first day and by the time we walked in, there was anxiety in the air. We were looking at them; they were looking at us. But by the end of the fourth grade, you couldn't tell who was from where, except for skin color."

Andrea Smith's memories of busing in Shaker Heights are still vivid.

She was one of the original participants in the district's voluntary busing program. Begun in 1970, it is the only busing plan for integration in Greater Cleveland.

Although Miss Smith and eight other pupils interviewed by The Plain Dealer enthusiastically support their system's voluntary busing and say it has improved race relations, they emphatically oppose court-ordered busing in Cleveland or throughout Cuyahoga County.

"I think forced busing is wrong," said Anne McKee, a Shaker Heights High School sophomore. "It only brings more frustration and anger and makes it worse."

The pupils, now in grades 9 through 11, discussed the effect of the busing program on their attitudes and on the atmosphere at their schools.

The plan involves the busing of black pupils from Moreland, a largely black elementary school, to six predominantly white schools, and the busing of white pupils from the six mostly white elementary schools to Moreland.

Most of the pupils said they were too young when busing began to realize the implications of it and of integration. Their parents' encouragement was a major factor in deciding to change schools, they said.

Doug McWilliams, a ninth grader at Woodbury Junior High who was bused in grades four through six, said: "Moreland seemed far away and I didn't like the idea of being bused at first, but my parents kept asking me. They liked the idea of trying to integrate the elementary schools.

"Once I got there (Moreland), I only knew one person and I didn't really like it till after the first week when I got to know some kids."

Christy Shanks, a junior at Shaker High who transferred to Malvern for the sixth grade, said: "I was happy at Moreland, but my parents wanted me to go to a more integrated school — they liked the idea of racial balance in Shaker Heights. I found myself accepted at Malvern and enjoyed getting a ride to school every day."

Laura Barnett, a Shaker Heights High sophomore who was bused in grades five and six, said she didn't realize what busing meant.

"I didn't know the difference between black and white," she said. "I just wanted to go to Moreland because my friend was going."

The pupils said the teachers helped the busing participants feel at home and that parents also welcomed them.

"The parents in Malvern were very friendly," Miss Shanks said. "Many of them might not have had much contact with blacks before we came, but they made an effort to be friendly."

A wide circle of friends — children from their new schools as well as old friends at their neighborhood schools — was a major benefit of busing, the pupils said.

Veronica Bell, a ninth grader at Woodbury Junior High who attended fourth through sixth grade at Sussex, said: "At first I was afraid — I worried about how they would accept me. But I met a lot of new friends."

And the pupils said the interracial network of friends helped smooth the transition to junior high.

"When it came to junior high, usually the two groups (black and white) split up," McWilliams said, "but when you know people from both groups, there's no conflict."

Miss McKee, who attended Moreland for grades five and six, said: "There's still separation, but when there were groups, it eased the tension knowing someone in the other group."

John Fejes, a ninth grader at Woodbury Junior High who transferred to Moreland for grades five and six, said: "Because I went to Moreland, I just wasn't afraid of blacks like so many people were. I think because of the plan there was no conflict — no one was saying, 'I'm white so I'm better than you' or 'I'm black so I'm better than you.'

"I think it eased a lot of tension," he said. "We weren't meeting blacks or whites for the first time; we were just meeting people."

Tom Frye, another ninth grader at Woodbury who attended Moreland for grades four through six, added: "I have a lot more friends, and it helps at Woodbury. It makes it easier to adjust to a big school."

Paula Hooper was bused from Moreland to Malvern in grades four through six. Children who were bused in elementary grades also have a choice of which junior high — Woodbury or Byron — to attend. Although she lives in the

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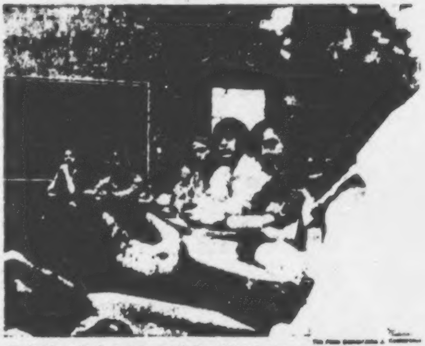


Shaker Heights pupils discuss the district's busing plan. They are Anne McKee, left, Christy Shanks, Laura Barnett, Doug McWilliams, John Fejes, Tom Frye, Andrea Smith and Paula Hooper.

Shaker Heights noted for successful busing

The Shaker Heights school system has long commanded a national reputation for its academic excellence and, more recently, for its ability to cope with racial integration.

The district attempted to promote integration in the district's elementary schools in 1970 by aiming at Moreland Elementary School. Housing patterns in the Moreland area, which serves as an entry to the suburb from Cleveland, had left the school 88% black in 1970.

In September 1970, the district began a voluntary plan calling for white pupils to transfer to Moreland. Black children living in Moreland could choose to transfer to any of the six elementary schools with a white majority. Lomond and Ludlow schools were not included because they were already well integrated in 1970.

The busing experiment was adopted as a permanent program in 1973. Not only is it the only busing plan for integration in Greater Cleveland, it is thought to be one of the few busing programs in the nation based on voluntary transfers of children between neighborhood schools.

This year, 165 pupils — 79 white and 86 black — are being bused. Before the program was begun, the elementary school enrollment ranged from 0% to 88% black; now they vary from 6% black at Malvern to 75% black at Moreland.

Systemwide, about one-third of the 6,748 pupils are black, a percentage that has been stable for several years.

The system received $123,000 in federal funds this year for the first time to promote the plan, and school officials hope to increase both the number of participants and the degree of integration in the elementary schools.

* * *

Voluntary plan has Shaker pupils' OK

— Continued from Page 25

Woodbury district, Miss Hooper chose to attend Byron.

"I was talking to someone today and he didn't even know I was being bused," she said. "You don't know who is coming from where, and I like that — there's no difference."

Being a relatively small and totally voluntary program has helped busing in Shaker succeed, the pupils said.

But they predicted chaos if countywide busing is ordered by the U.S. District Court in the suit brought by the NAACP against Cleveland and state school officials.

The pupils said they think prevailing negative attitudes throughout the county toward busing would almost guarantee problems and suggested that the money be spent on improving education rather than transporting pupils.

But their overriding concern is that the Shaker district, which they consider already successfully integrated and educationally superior to systems in the rest of the county, would be decimated by countywide busing.

"I couldn't care less if anyone comes to our school as long as we don't have to go out," said Miss Smith, a ninth grader at Woodbury Junior High who was bused from Moreland to Malvern in grades four through six.

"We've done it on our own," she said. "We pioneered it. We faced everything. Why should we go through it again?"

SCRIPPS-HOWARD

The Cleveland Press

The Newspaper That Serves Its Readers

No. 25339 Wednesday, April 6, 1977

Busing—Shaker Heights style

By BUD WEIDENTHAL

Last of a Series

Every school day, promptly at 8:58 a.m., two crowded yellow buses pull alongside Moreland School in Shaker Heights and deposit their passengers.

The 101 neatly dressed, excited youngsters — all of them white — skip or run to the building to join about 300 black children who have walked to school from the surrounding neighborhood.

This is busing — Shaker Heights style — and to a limited degree it is working.

In most suburban districts, such a move to integrate a school through voluntary busing would be labeled a noble success.

But some people in Shaker, including the outspoken new superintendent Jack P. Taylor, aren't satisfied with the limited achievement of the Moreland experiment. They point out that the school is still 73% black.

They have looked at the racial statistics and patterns at other Shaker elementary schools and have concluded that the voluntary busing of 100 or so whites to one school isn't enough. Taylor and his school board want to do more, and they think it can be done voluntarily, with some persuasive selling.

Their aim is to bring the black enrollment of all Shaker schools within 15% — one side or the other — of the 35% black enrollment in the entire district.

The target schools in the new and expanded program include Moreland, Ludlow, now 70% black, and Lomond. A team of Shaker citizens, paid by a federal grant, will work with these schools and three others which are mostly white.

The new Shaker Plan will continue to be voluntary and involve both blacks and whites. Parents of black youngsters in the mostly black schools will be asked to send their children to the predominantly white schools.

And white parents will be asked in greater numbers to send their children to the mostly black schools.

Thus providing the desired racial balance.

Taylor will give the voluntary plan perhaps a year. But he insists that if not enough families, both black and white, volunteer more may have to be done.

He discusses informally the possi-

Turn to Page A 4

Busing — Shaker Heights style

Continued from Page 1

bility of reassignment of students through pairing of schools, redrawing school boundaries and other methods used in desegregation.

And Taylor, who came here from Saginaw, Mich., believes that whatever is eventually done, Shaker will accept it. There are some important factors working in the suburb's favor.

The people of Shaker are used to integration and accept it.

There are many similarities in the social and economic backgrounds of many of the blacks and whites in Shaker. Many are middle class professionals who put great stress on educational quality for their children, Taylor says.

"In other words we're not saying that the Shaker plan is a model for any other city. I know such a plan would not have worked in Saginaw. It may not work anywhere else in the Cleveland area.

"We're not patting ourselves on the back. We're just doing what we think is right for Shaker Heights."

Sustaining Taylor's optimism are statistics which show that the proportion of blacks in the school system is growing slowly and may have stabilized.

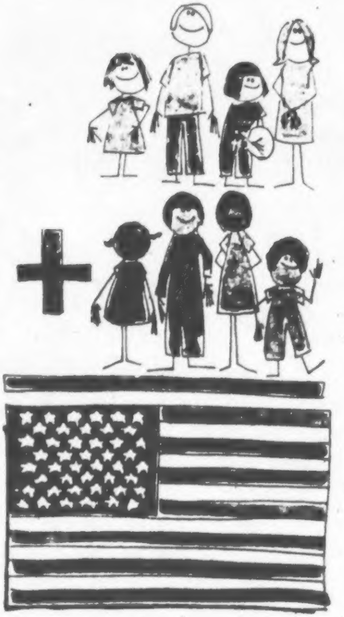
He says that housing for young families both white and black is in great demand in Shaker, "because there are a lot of young parents who want quality integrated education for their children."

• • •

A PICTURE OF HARMONY — These second grade music students at Moreland school learn that things sound better if you play together. Small classes are one of the attractions of the integrated Moreland school. (Press photos by Tim Culek)

Growing up white in a (largely) black elementary school

By Carolyn Miller



At dinner about three years ago my daughter Nancy, then a second-grader, announced suddenly, "A long time ago some of us were slaves in America."

Her fourth-grade sister shot back, "Dummy, we weren't slaves ever, but our ancestors were."

What is this "we"? I wanted to cry out, but I managed to restrain myself. Whose ancestors?

I looked across the dinner table at my husband, whose face surely mirrored my own amazement and confusion.

"Weren't we slaves once, mommy?" earnest Nancy persisted.

With what surprise at hearing my own words, this white daughter of the border South managed to answer, "Yes, it's true some of us were slaves once."

You see, when my three children say "we" in referring to Americans they don't usually, or probably ever, mean just white Americans. But that is not the way I was schooled in the (legally) segregated West Virginia of the 1940s and 1950s.

My children, however, have moved far beyond my world. In fact, they've moved beyond the world of most white Americans because they attend a public elementary school in which a majority of pupils are black.

Their school, Ludlow, is in Shaker Heights. Our little corner of the community has achieved a fair amount of fame on its own as one of the original neighborhoods in this country that achieved, consciously and with much effort, a degree of stable integration. The black migration into the Cleveland part of our school district began in 1956. (Ludlow School serves a portion of Cleveland as well as a portion of Shaker Heights, which goes a long way towards explaining both its black population and fair degree of economic diversity.) Today, about 30% of the school's pupils are white. I would guess it's been about like that since our first child entered Ludlow.

Joanna, who's now a Ludlow graduate and a seventh-grader, started school in Ludlow kindergarten in the fall of 1969, just at the close of the "civil rights decade." Nancy, 10, followed in 1971. Richard, 6, is a Ludlow first-grader.

In trying to sort out my impressions and feelings about their experiences I keep coming back to how natural and plain their lives (and mine) seem to me.

In a country as racist as ours surely there must be something profound or exotic about their experiences, but I can't think of even one rousing story. They bring home reading scores that are as good and jeans that are as dirty as I would expect to receive from any all-white suburban school.

They bring home much else that tells me a little of the saga of being black in our land. Nancy has read a school biography of Harriet Tubman at least three times. Although I try never to lie to my children, I did mumble vaguely when Nancy asked me if I didn't "just love" Harriet when I was a little girl. How could I explain that I never even heard of Harriet Tubman until I was a college student? We did spend a lot of time in West Virginia History on old John Brown, but my impressions gleaned from the version we learned might horrify Nancy.

Is Nancy's concern about brave Harriet's struggles a tribute to Nancy's (white) classroom teacher? Probably.

Is her utterly natural, unpatronizing approach to our neglected black forebears a tribute to her associations with black peers? Undoubtedly.

I should add that my girls haven't lost George Washington or Ben Franklin in their pursuit of Harriet Tubman and Rosa Parks. They seem to honor them all, in some fantastic melange that may yet spell "America" for me.

In their classroom, Martin Luther King Day is not a day laid on the schools to satisfy some Johnny-come-lately affirmative action policy. Ludlow kids honored Dr. King and his dream when he was still alive to dream it with them. I would be less than honest if I didn't add that their parents, black and white, are generally less idealistic. However, when my kids encounter black cynicism and bitterness later on, at least they will have touched the roots of pride and hope that came before the bitter years.

It's not all serious stuff that comes home. I won't soon forget the first time I heard Joanna "talking black." She's mocking some black child, my offended liberal sensibilities told me. She wasn't. In a truly unself-conscious and natural fashion, she had adopted the slang of her peers. (The slang reaches the urban mainstream mostly after the kids have dropped it. Middle-class black kids, I've noticed, don't sound much more authentic at ghetto patois than their white counterparts.)

Recently my daughter reported to me in an amazed voice that she'd seen a notice from some organization offering an adult education course in "How to talk to black people."

"Isn't that great?" she asked, expecting an answer.

With Boston and Louisville and our own Cleveland school desegregation case on my mind I can think of no answer that preserves the innocence of her vision without smothering myself in hypocrisy.

That 1960s phrase, "Black is beautiful," would bewilder my kids. Their descriptions of others are explicit and useful.

"She's the girl in Miss Newman's class with very black skin."

"He's the tall boy with the snappy Afro." Sometimes this category turns out to be white.

Of course, I know many sensitive adults don't describe friends or co-workers first by race, but with adults it is conscious choice (and not always a natural one). My kids, I'm convinced, mention color or leave it out without a twinge of feeling. On the subject of race they've obviously learned about what Robert Coles calls "particular vision." I'd say that's worth more than their piano lessons and straightened teeth — and cheaper, too. Incidentally, their own self-images seem healthy and fine.

These musings touch only lightly the crucial problems of my city, my neighborhood. The controversy when the Ludlow area gained 14 units of public housing several years ago nearly ripped our neighborhood apart, with the class divisiveness that hurts as much as any color barrier. Even our integration efforts have resulted in some tainted policies. The mayor of Shaker Heights was quoted in the New York Times on the value of our Shaker Housing Office practice of "benign steering." (Is discrimination less a crime if it's done "benignly" by the government?)

A black friend and neighbor says that most of Ludlow's integration talk is a "myth." She's right, of course. When we have worked and shopped and socialized throughout our lives in the same poisoned atmosphere as our counterparts in black ghetto and white enclave, the tentative and edgy nature of our relations is hardly surprising. Yet, clinging to a myth (however imperfect) may be healthier than sharing the hatreds and palpable fears that fill our city to its suburban fringes.

My kids, I think, won't need a myth to deal with their roles in the ongoing American dilemma. I think they'll see blackness whole and clear.

For my own family's experiences — limited, personal as they are — I make no large claims. But my kids are happy. I'm glad we're where we

— THE PLAIN DEALER, MONDAY, APRIL 11, 1977

FACTS

SHAKER SCHOOLS
PLAN

About the Shaker Schools Plan

May, 1977

1. What is it?

The Shaker Schools Plan is a voluntary cross-enrollment program designed to promote racial integration within the Shaker Heights City School District. Under the expanded Plan effective in September, 1977, the program will be opened to every elementary and junior high school in the district for the first time. Accordingly, any student may apply for transfer to any other Shaker school if the transfer would improve racial balance.

At the elementary school level, black students living in Lomond, Ludlow, or Moreland districts may choose transfer to Boulevard, Fernway, Malvern, Mercer, Onaway, or Sussex schools. White students living in any of those districts may choose transfer to Lomond, Ludlow, or Moreland. At the junior high school level, black students living in the Woodbury district may apply for transfer to Byron, and white students living in Bryron may request transfer to Woodbury.

2. What is our goal?

Our goal is to bring each school as close as possible to the district-wide racial balance of approximately two thirds white, one third black students. That is why black students will be allowed to transfer out of, and white students transfer into, Lomond and Woodbury. Although they are both majority white schools, their student bodies are more than one third black. Our one senior high school automatically reflects the district-wide percentages. Beyond the goal of desegregation, we constantly seek to improve the quality of education and of human relations for everyone in our schools.

3. Why was the Plan begun?

Before the Plan started in September, 1970, our nine elementary schools ranged from one school (Moreland) which was 88% black to six schools with 10% or fewer black students. The Plan was originally designed to desegregate Moreland and promote integration in six predominantly white schools.

In February, 1977, the School Board reaffirmed support of the Plan by voting to extend the same options to the remaining two elementary schools (Ludlow and Lomond) and both junior highs. It is still the only reassignment program for racial integration in greater Cleveland, and one of the few programs in the nation based on voluntary transfer of both black and white children between neighborhood schools.

4. How many are enrolled?

When school opened this fall, 81 new students joined the elementary school program. At this writing 204 students, about equally divided between black and white children, are enrolled. This year more white children -- 101 -- are enrolled at Moreland through the Shaker Schools Plan than at any time since the program began in 1970. Next year white students will also have the option of choosing Lomond or Ludlow, as well as Moreland.

5. Why federal funding?

Since July 1, 1975, the Plan has been administered by an Office devoted entirely to its needs, funded by grants from the U.S. Department of Health, Education, and Welfare under Title VII of the Emergency School Aid Act. For the 1975-76 school year, we received $135,000 to improve and expand our program. For 1976-77, Shaker Schools received $283,000, not only to strengthen our elementary school transfer Plan, but also to finance new programs to reduce racial isolation, especially on the secondary school level. For next year we have applied for continued federal funding to support our expanded Plan.

6. What does the staff do?

As full-time Director, Beverly S. Mason coordinates a variety of services to schools, parents, and the larger community. Part-time staff members are each working on different, but related tasks: in-service training for teachers; human relations programs for children and parents; liaison between the transferred child's family and the receiving school; monitoring of bus routes and schedules; development of meaningful extra-curricular activities; informing the community of our goals; and recruitment of new participants.

7. How is the Plan promoted?

First the staff works to assure satisfaction of those already participating. Each child's adjustment to his new school is a matter of staff interest. Parents are encouraged to call the office with any concern.

With the help of PTA representatives in each school, new families in the program are matched with "link families" in the receiving school, who help the child and his parents feel welcome in his new surroundings. Special effort is also made to encourage participation in after-school activities.

8. How does the Plan benefit the individual child?

By being part of an integrated school community from an early age, each child is better prepared to enter our integrated secondary schools and later to participate more effectively in the multi-racial society beyond the school doors. Many children find through the Plan their first opportunity to make friends of another race. While becoming aware of cultural differences and similarities, they also learn to perceive each other as individuals.

For many students, there is the pride of succeeding in a world beyond the neighborhood, the joy of finding acceptance outside one's own racial group, the strength of learning to cope with whatever challenges do arise. For the community, there is the pride that we can strive toward our goals under our own initiative, in our own way, without outside control.

9. Is there any way to contribute to the success of the Plan besides volunteering a child?

You may become informed about the Plan, visit participating schools, and tell eligible families that this choice is open to them. If there are transferred children in your neighborhood school, you can become a "link family" through your PTA.

10. How do all Title VII programs relate to the Shaker Schools Plan?

While we transfer students to alter the racial percentages in our schools, we consider this numerical desegregation to be only the first step toward our goal of offering a truly integrated educational experience to every child in the district. All programs funded under Title VII are designed as part of a total support system to implement that goal.

The ***professional development series*** for teachers at all grade levels utilizes outside consultants, as well as our own staff members, to develop a highly sensitized professional staff with deepened insights into the needs of students in desegregated schools. Our staff assistant for in-service training designs programs for individual schools, in cooperation with their building representatives, to help them improve interpersonal and inter-racial relationships among students and teachers.

Because we believe that children cannot merely be bused and left at the school door without further efforts at socialization, the concept of the ***resource room*** -- begun originally at Moreland -- has been introduced in the other elementary schools. In two of our buildings, where space allows, a room has been opened to children in grades 1-3, where black and white children have a chance to mingle outside the regular classroom setting, while enjoying a variety of creative activities.

In primary classrooms at all nine elementary schools, four specially trained teachers are offering a program, new this year, called ***personal awareness and career development.*** Exploring children's feelings through the use of puppets, stories, and other means, they are helping children to understand themselves and their relationship to others, and to use this understanding to become self-fulfilled, contributing members of society.

On the secondary level, ***resource centers*** at the two junior highs and a ***school-within-a-school***, housed in an entirely remodeled classroom area at the senior high, give extra support to students who were not thriving in the regular program. At this writing 55 students, equally divided between black and white, are enrolled in the senior high alternative school. With the guidance of additional teachers, these students are learning to cope with academic responsibilities so that they can rejoin the regular program and assume positive roles in the multi-racial school community.

11. Is the Shaker Schools Plan a success?

Because of the Plan, Shaker Heights has achieved some degree of racial integration in every school, and provided all children with the opportunity to learn with members of the other race. With the help of Title VII programs in human relations, we have also made tangible gains in improved relationships among black and white students and teachers.

However, there is still a long way to go if the Shaker school community intends to bring all its schools into balance with the district-wide racial percentage. As Superintendent Jack P. Taylor has said: "The success of any voluntary plan depends upon the support of people in the community. We don't ask our neighbor to do it; we do it ourselves."

12. How do you enroll a child, request a school tour, or get more information?

CALL THE SHAKER SCHOOLS PLAN OFFICE, 921-1400, ANY WEEKDAY.

Office of the Shaker Schools Plan
Shaker Heights City School District
15600 Parkland Drive
Shaker Heights, Ohio 44120
Dr. Jack P. Taylor, Superintendent

Dr. Mark Freeman,
Director of Federal Programs
Beverly S. Mason, Coordinator
Anne B. Adamson, Editor

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Mr. **Heftel**. Thank you very much, Dr. Freeman. My colleague from Ohio, Mr. Mottl, would like to address questions to you at this time, and then we would like to hear from Dr. Harris, if that is agreeable.

Mr. **Mottl**. Thank you very much, Mr. Chairman.

Dr. Freeman, I would like to welcome you to our committee. It is a pleasure to have somebody of your caliber address our committee.

I have long been an admirer of the Shaker Heights school system. There is no doubt in my mind that it is one of the best in the country, but if I may I would like to proffer a few questions to you, so that I can understand your experiences in Shaker Heights, which might be of benefit to the entire committee.

Shaker Heights is one of the most prosperous school districts in Ohio, is that not correct?

Dr. **Freeman**. I do not know how you define prosperous, but yes, I think I know what you mean, and I would concur.

Mr. **Mottl**. I think a couple of years ago Fortune magazine said that Shaker Heights was the wealthiest community in the United States. I think that this may no longer be true.

Dr. **Freeman**. I live there and I am not too wealthy. I do not know if that is true, but the school district runs the whole spectrum from children on welfare to millionaires. It just runs the whole gamut, yes.

Mr. **Mottl**. You have about an equal number of millionaires and welfare people?

Dr. **Freeman**. No, I do not think so.

Mr. **Mottl**. Have you talked with Dr. Briggs, one of the most respected persons in education, the supertintendent of Cleveland schools, about working a voluntary busing program with Cleveland for integration?

Dr. **Freeman**. Are you asking me whether I think that Cleveland schools can desegregate voluntarily?

Mr. **Mottl**. No. I am asking whether you have, representing Shaker Heights, worked out any plan with Cleveland as far as busing between Shaker Heights pupils and students of the City of Cleveland for purposes of integration?

Dr. **Freeman**. No, we have not discussed that. Our school district is about one-third minority students, primariy black, and we think because of ESAA funds we have been able to integrate the school district, and are happy with that.

Mr. **Mottl**. Would you object to cross-town, cross-district busing with Cleveland?

Dr. **Freeman**. I do not know that that is the issue. I do not know that it would affect our school district in terms of——

Mr. **Mottl**. I think it would be a beneficial experience for the wealthier boys and girls to attend school with the not as affluent.

Dr. **Freeman**. Yes, I think that certainly could be investigated.

Mr. **Mottl**. I just wonder if you have explored any of this with Dr. Briggs.

Dr. **Freeman**. No, I do not know. The superintendent may have. I know the area superintendents meet together and discuss issues. I do not know that metropolitan busing has been discussed with the Cleveland schools. It certainly might help their problems.

Mr. **Mottl**. Good. The next time I talk to Dr. Briggs I will encourage that suggestion.

Dr. **Freeman**. I am sure you will.

Mr. **Mottl**. You said that about one-third of your student body is composed of minority students?

Dr. **Freeman**. Yes. I think it is really about 35 percent.

Mr. **Mottl**. What has been the cost of busing for purposes of desegregation?

Dr. **Freeman**. It is very difficult, and I am not trying to evade the question. You mean the cost of transportation per se?

Mr. **Mottl**. The cost of any additional buses, the cost of the drivers for these additional buses, the cost of gasoline.

Dr. **Freeman**. What happens, Congressman Mottl, our district geographically is quite small, and we bus youngsters for a variety of reasons, so it is difficult to take that variable out. If the bus is going from one school to another with special education youngsters, and we also have this for the purpose of desegregation, it is difficult to say what the purpose—I suppose one way to get at it would be to divide the overall cost of busing by the number of students, and then the number that are transported for racial purposes.

Mr. **Mottl**. Do you have any figures?

Dr. **Freeman**. I really do not have a good estimate.

Mr. **Mottl**. No ball park figure at all?

Dr. **Freeman**. No, I honestly do not. I think I would be misleading the Members of Congress and you to give a figure of that type.

Mr. **Heftel**. Mr. Mottl, if you will yield for a moment?

Mr. **Mottl**. Yes.

Mr. **Heftel**. We have the problem of a vote on the floor. That is what those two lights and bells are telling us. I think we might lose our momentum, and I think there is tremendously significant information coming from the panel, so I would like to keep the meeting and the hearing going.

If Mr. Mottl would take the chaiman's chair from me now and continue with you. Then, if Mrs. Chisholm would then introduce Dr. Harris for your remarks, which unfortunately were mailed on Monday but have not arrived yet, so we do not have a copy of them, which we will enter in the record afterward. I will return as fast as I can.

Mr. **Mottl**. Mr. Chairman, may we just recess for five minutes so that we can all make the roll call? Then we will come back.

Mr. **Heftel**. All right. I was trying to avoid that but I guess everybody disappeared. We will totally have to recess and come back as fast as we can, if you will excuse us.

Thank you.

[Short recess.]

Mr. **Mottl**. Dr. Freeman, could we continue the discussion?

When we left off, Dr. Freeman, you were describing the schools that were involved. How many schools were involved in the desegregation program in Shaker Heights?

Dr. **Freeman**. We have 12 schools. We only have one high school in the district, so in terms—all of the schools are involved in a variety of programs in terms of transfer of students, if that is what you want to know. Next year 11 other schools will be involved.

Mr. Mottl. How many presently are involved in the transfer of students?

Dr. Freeman. This year we have 7 involved?

Mr. Mottl. 7?

Dr. Freeman. Next year we will have 11.

Mr. Mottl. But you have one high school, so actually 10 schools then, or do you have 12?

Dr. Freeman. No, we have 12 schools; 2 junior high schools, excuse me.

Mr. Mottl. How are you transferring students, by pairing, or by clustering?

Dr. Freeman. No, it is strictly voluntary.

Mr. Mottl. It is all voluntary?

Dr. Freeman. Yes. Parents can elect to send a youngster to a school to help out to improve the racial balance of that school. In other words, a child that is in a predominantly white school, the parents of that child could volunteer to have that child bused to a school that is predominatly black.

Mr. Mottl. Approximately one-third of your enrollment is minority, is that correct?

Dr. Freeman. Right, a little over a third.

Mr. Mottl. Of the 7 schools that are now transferring students----

Dr. Freeman. Right.

Mr. Mottl. ----do you have approximately one-third of the student bodies of all of those schools composed of minority students right now?

Dr. Freeman. No, oh, no.

Mr. Mottl. What is the minority student percentage of those schools in your transfer program?

Dr. Freeman. I could read down the list.

Mr. Mottl. I would appreciate that.

Dr. Freeman. I wish it was that way.

Actually, you might be interested in the racial composition of the schools in 1969-70 when we started, as opposed to 1976-77. Do you want me to go down both lists?

Mr. Mottl. Yes.

Dr. Freeman. The district, and this is to the best of my recollection, was in 1969-70 about 16 percent minority, and in the case of our school district, minority is really black youngsters. We have small numbers of other minorities.

The Moorland elementary school at that time was 88 percent minority, and this year it finished at 72.9 percent minority children. Had we not intervened, it would be probably 99 percent minority youngsters, so the statistics become a little bit involved.

Let me go down the list here. Ludlow school in 1969-70 was 64.4 percent. One of the problems with these statistics is the particular time of the year you take them, and they vary a bit, but I think it gives you a good idea.

Lomond School was 32 percent minority; Sussex School was 10 percent minority; Oneway School was 7.6 percent minority; Boulevard School, 3.6 minority; Fernway School, 2.8 percent minority;

Mercer School was 1.6 minority; and Malvern was no minority youngsters.

In the fall of this school year, Ludlow was 76.1; Moreland, 72.9; Lomond, 48.1; Woodbury Junior High School, 43.6; Shaker Senior High, 35.7; and again that reflects the overall composition of the district or very close to it,; Sussex School was 30.7; Byron Junior High School was 29.1; Onaway was 24.6; Boulevard was 26.1; Fernway was 11.5; Mercer was 9.8; and Malvern was 8.0; and, of course, next year, this coming year, we hope to improve the balance.

Mr. MOTTL. So there has been a substantial increase of minority people coming into Shaker Heights since 1969-70.

Dr. FREEMAN. Yes, there has been about a 10 percent increase, that is correct.

Mr. MOTTL. Basically the concentration of minority students in the schools you read off are in the area where the minority population resides, their neighborhoods; is that correct?

Dr. FREEMAN. Oh, yes.

Mr. MOTTL. So there hasn't been, according to those statistics as I could discern or perceive them, a substantial amount of the transferring of students in Shaker Heights, has there?

Dr. FREEMAN. I don't know quite how to answer the question. There are two sides to the issue. For example, a school with no minority youngsters now has minority youngsters because of the plan, and these aren't residents per se of that school district. I don't think, Congressman Mottl, that it is overwhelming and that it is easily done. I think it is a very, very, difficult process, and there has been a great deal of staff, professional time and commitment from the community to do this, and I want to underscore that we certainly have problems like other school districts in doing this.

We haven't achieved, you know, perfect racial balance, and that is why we want to keep working at it, and we want to be able hopefully to, rather than limit parental choice, expand parental choice.

Mr. MOTTL. What was the population of your school system in 1970, and what is the population of the school system now?

Dr. FREEMAN. I will use the same figures here again. This changes. 7,618 in 1969-70, and 6,717 for this last school year, at the time these figures were taken.

Mr. MOTTL. So the enrollment has gone down.

Dr. FREEMAN. Enrollment has gone down like other school districts, yes.

Mr. MOTTL. You had your levy recently decided----

Dr. FREEMAN. Yes.

Mr. MOTTL. ----on school districts. It was defeated.

Dr. FREEMAN. Yes, that was unfortunate.

Mr. MOTTL. In Dayton, where there is a forced busing program, the school levy went down 2-1/2 to 1 though, didn't it.

Dr. FREEMAN. Yes, I saw that in the Cleveland papers.

Mr. MOTTL. I don't know how much of that is attributed to desegregation or how much to just voter disapproval of all forms of taxation, as in our school district.

Dr. FREEMAN. I think it is unfortunate that in the country, in our State, that one area where voters get a choice is the financing of schools, and I wonder how often these negative votes in defeating school issues are really kind of a collective negative to taxation in other forms like sewer, income tax or whatever the tax might be. I think unfortunatey schools across the country are underfunded and I hope you agree with me.

Mr. MOTTL. The point is that in Shaker Heights your assignment of pupils to a busing program is voluntary.

Dr. FREEMAN. That is right. The parent has a choice.

Mr. MOTTL. Do you think if the busing was forced under a court order there might be more problems for you?

Dr. FREEMAN. I certainly would agree with you that any time a school district is under court order to desegregate, there are substantial problems, and there would be problems I would see in our school district like in any other school district. I think it would be foolish for me to deny that.

Mr. MOTTL. I would like to bring out another point. I wonder if you would agree with me on this premise, that a large school district may have different type problems than a smaller school district.

Dr. FREEMAN. Absolutely. I totally agree with that. The problems are much different in the Tampa area, or of course we are both from the suburban area, you represent the suburban Cleveland area and of course I am from that area. I do not want to give the impression that what has gone on in Shaker Heights would necessarily apply to the City of Cleveland. I do not think it would. It might apply to other districts similar in size and scope to the one I represent. If I have given that impression, I don't mean to.

Mr. MOTTL. I think you have been extremely helpful and I certainly appreciate your testimony here this morning.

One last question.

Do you have any idea how many miles a school bus gets per gallon of gasoline.

Dr. FREEMAN. I don't know. I am sure these other gentlemen know.

Do you guys know? I am sure ours is the same as everybody else's.

Dr. HARRIS. I don't have buses.

Dr. FREEMAN. I am sure we get the same mileage that everybody else does.

Mr. MOTTL. Dr. Freeman, again I want to thank you. I certainly appreciate your cooperating.

Thank you very much.

Dr. FREEMAN. Thank you.

Mr. MOTTL. Thank you, Mr. Chairman.

Mr. HEFTEL. We are now hopefully reconvened for a reasonable period of time.

Would you like to introduce Dr. Harris, the community superintendent from Brooklyn, Mrs. Chisholm?

Ms. CHISHOLM. Thank you very much, Mr. Chairman.

It gives me a great deal of pleasure to introduce Dr. Jerome Harris, the community school superintendent from District 13 in the Borough of Brooklyn, my own congressional district.

Dr. Harris originally came from California and California's loss is New York's gain, or more specifically, Brooklyn's gain.

Dr. Harris is a very concerned, committed, compassionate educator, and a person that is not afraid to speak out and address himself to the issues as he sees them. Sometimes it is rather difficult for some of us to address ourselves fully to the issues because of certain implications, and I am very, very happy that he will be testifying for this committee this morning because of the fact that he represents a very large urban area in the Borough of Brooklyn.

I welcome you, Dr. Harris.

Mr. HEFTEL. I would also like to point out that for a number of years I believe Mrs. Chisholm was a valued and trusted member of this committee, and we are welcoming you home today, are we not?

Ms. CHISHOLM. Yes.

Mr. HEFTEL. Dr. Harris, please.

STATEMENT OF DR. J. JEROME HARRIS, SUPERINTENDENT, COMMUNITY SCHOOL DISTRICT #13, BROOKLYN, NEW YORK

Dr. HARRIS. I start out by apologizing for being late. There were four flights out and I was on the last section.

Mr. HEFTEL. Coming from Hawaii, I know what you are dealing with.

Dr. HARRIS. I understand you now have copies of the written statement.

Mr. HEFTEL. We do now have the copies.

Dr. HARRIS. The oral testimony will not be a verbatim part of the written.

I want it to be clear from the beginning that I am speaking for District 13 and not for New York City. I do not represent New York City, just District 13, which is a part of the New York City School System.

In my testimony you will find that there are two me's, as the educator there is the concern of black persons. I have trouble separating those two. Sometimes the system demands that we separate them, so that is where I still have some problems with separating my responsibilities as the black educator.

The original ESAA program, as it started, had two main goals as I look at it. One was the desegregation assistance to schools. The other was to make attempts to reduce effects of minority group isolation. Those goals are in theory very much related, but in practice, they are becoming more and more unrelated. The guidelines for this year's program recognizes the conflict between two goals and seem to give greater weight to the goal of desegregation.

Since the funds come from the same pot, that means the goal of reducing minimum group isolation are not getting their due. Therefore, a district such as mine is being punished. Twenty-two thousand students, 97 percent black and Hispanic. Under the present guidelines this year we are not eligible for the basic grants. District 13 has concentrated on upgrading the quality of education for all our students, in the three years I have been there we have seen the reading scores improve. When I came, I think last year, we had 40 percent at or above grade level last year. My district shall continue to have special needs and need special funds if it is ever to attract white students. District 13 of Brooklyn happens to be unique in area because we are not completely isolated and do have the potential for attracting middle-class black and white students, the historic brownstones in my district are being revived; no longer are they the rooming houses of the 1960's and 1940's but are being restored to the elegance they used to have. Many of the people are finding the trip from the suburbs to where the jobs are is a little bit much and they are coming back into our district to live.

However, many of them, both black and white, tend to be people of wealth and they are not using the public schools. They can afford the private schools. If they are using public schools, by and large, they are sending their children by some subterfuge to another district where they can find some kind of racial balance and, by and large, a school with an ESAA program to give the frosting on its cake. So you might say the other districts with the frosting on the cake are increasing the problems in my district. It is a kind of two-edged sword. This has a devastating effect from the brain drain of the blacks not from the absence of the whites. As these people recruit, they take our best blacks and I need those in my district to help keep active parents involved and to receive as models for my other students.

Many districts in New York and in the nation are given ESAA grants to help with desegregation. Yet, I guess if we reviewed the history of ESAA funding over the years, we would find these districts have little or no desegregation plan of their own. It is my understanding the ESAA grant is not really to do it but to encourage them. During the period of time this grant has been in operation I would think those districts would have come up with a complete desegregation plan of their own. It sickens me for the districts to ask for the ESAA money for the one- or two-year period and make little effort on their own as to desegregation. One phase these districts have complete control over is their staff. If these districts mean what they are saying, they can integrate their staff overnight. I think ESAA regulations should be more closely related to the Office for Civil Rights.

I would also suggest integration in the urban cities is a long way off but there is a trend that is returning whites to our inner city but unless our schools are upgraded, that population is not going to use the schools. Therefore, we really should concentrate on removing the effects of racial isolation. I would recommend that ESAA should make provisions for participation of predominantly minority school districts which have few opportunities to attract the nonminority pupil.

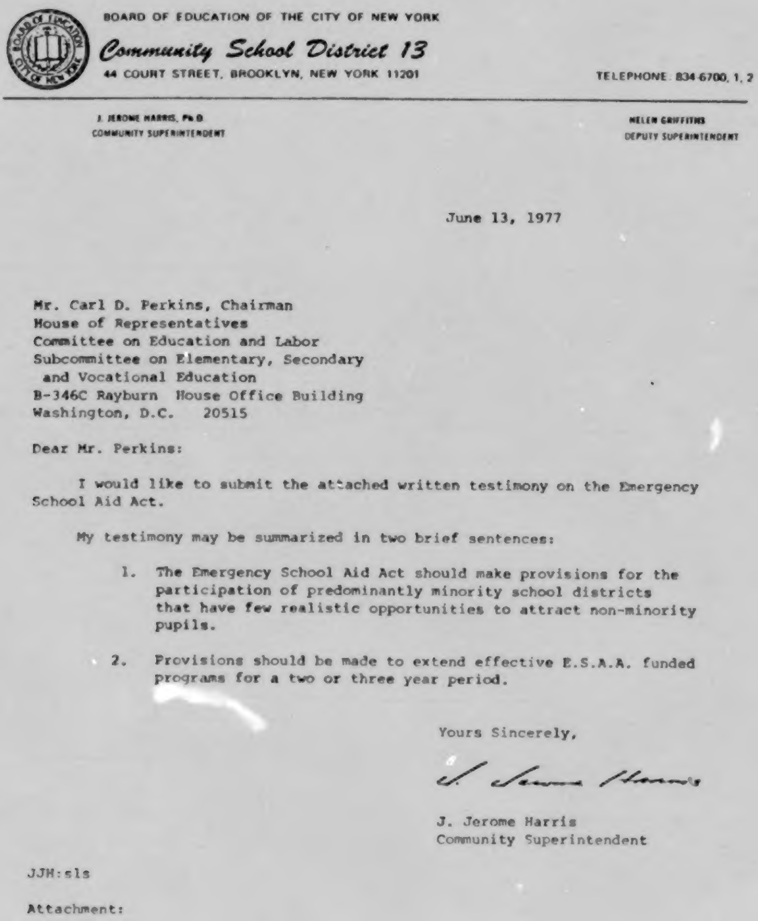
I would also recommend that the one-year funding is not fair on any district. It takes time to crank it into the system. If it is working I think the funding should be extended to two or three years. I don't think ESAA should estalish a plan of funding long-range programs but there has to be some provision for extending programs with promising results beyond one-year periods.

No ESAA funds should be given to any district in which the Office of Civil Rights has determmined to be in violation of civil rights laws. I know that includes all of New York City. Whatever pressure ESAA can bring to accomplish the long-range goal will be helpful to education.

Probably a last problem as we look at the grant, I can understand politically how it was written, but there is an attempt to assure all States receive a piece of the pie. Someway or another it doesn't seem to me that South Dakota would have the same problems as Georgia or Mississippi would have. Forgive me if any of you are from South Dakota. I would suggest we return to national competition so those with the greatest needs have the greatest opportunity to obtain funds.

That is all I have to say and will be happy to respond to any questions you may wish to ask.

[The prepared statement of Dr. Harris follows:]



BOARD OF EDUCATION OF THE CITY OF NEW YORK
Community School District 13
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TELEPHONE 834-6700, 1, 2

J. JEROME HARRIS, Ph.D.
COMMUNITY SUPERINTENDENT

HELEN GRIFFITHS
DEPUTY SUPERINTENDENT

June 13, 1977

Mr. Carl D. Perkins, Chairman
House of Representatives
Committee on Education and Labor
Subcommittee on Elementary, Secondary
and Vocational Education
B-346C Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Perkins:

I would like to submit the attached written testimony on the Emergency School Aid Act.

My testimony may be summarized in two brief sentences:

1. The Emergency School Aid Act should make provisions for the participation of predominantly minority school districts that have few realistic opportunities to attract non-minority pupils.
2. Provisions should be made to extend effective E.S.A.A. funded programs for a two or three year period.

Yours Sincerely,

J. Jerome Harris

J. Jerome Harris
Community Superintendent

JJH:sls

Attachment:

District 13, Brooklyn, New York has two concerns that relate to the Emergency School Aid Act program. The first concern is the current eligibility and proposal requirements for basic grants under the program. Our second concern is the lack of a continuation grants category that would enable districts to operate a E.S.A.A. funded program for at least two years.

My district has approximately 20,000 students. Ninety seven percent of these students are Black or Hispanic although the geographical area of the district includes the affluent, overwhelming white community of Brooklyn Heights and the poverty plagued, dark-skinned complex of Bedford-Stuyvesant. Sandwiched in between are sections of historic brownstones that are enjoying a slow revival from being run-down rooming houses in the 1940's, 50's and 60's to an assumption of their original character of elegant townhouses for middle class families some of whom are Black. Most, however, are white. All, have the desire and the resources to seek and find good schools for their children. Few of the children in these families enter our public schools although, in the three years that I have been Superintendent, I have concentrated on upgrading the quality of education for all students in the twenty two schools under my jurisdiction. Statistics published recently which compare my district with others in New York City indicate that we have made significant improvement when compared to other districts. But given the school population that we have in the communities we serve, we have and will continue to have for some time many schools with special problems that require special answers and special funds. I am referring to the established fact that schools serving minority pupils - that is, pupils who are Black or Hispanic - require additional educational resources if they are to approach an equal status with schools in non-minority communities serving a predominantly non-minority population.

Schools that are predominantly Black still carry a stigma that discourages Whites and some Blacks even if those schools are equal in instructional effectiveness to predominantly white schools.

In order to attract white families and others who have considerable socio-economic freedom to select where they live and where their children will attend school, predominantly Black institutions cannot be equal to comparable white institutions. They must be better. This phenomena is not only operative in education. Jackie Robinson would never have played for the Brooklyn Dodgers if he were not better than the average professional ball-player.

Prior to this year, one of the purposes of the Emergency School Aid Act was to reduce the effects of minority group isolation. As stated, this provision recognized the unique problems of school districts, such as District 13, which have to wrestle with additional problems in school management and instruction because we are racially isolated.

This year the rules were changed. Districts competing for E.S.A.A. funds were required to submit proposals for funding that were directly related to combating problems arising out of a plan to integrate or desegregate a district. This approach clearly favors districts that are heavily or predominantly white. These districts are encouraged to develop plans to attract pupils from districts, such as mine, that are heavily Black and Hispanic. The damage is further compounded because the pupils whom they attract are the more successful pupil, the pupil whose family has the socio-economic wherewithal to seek what they believe to be the best education for their children, the pupil we wish to keep in our district because that pupil provides a healthy influence on other pupils. Take away enough of those pupils and we will be left with schools for low achievers, thereby reinforcing the belief that minority schools are low achieving schools. Restating the problem, I have to say that the present criteria for awarding basic grants under the Emergency School Aid Act, not only favors predominantly white school districts, but it fosters the educational disintegration of minority school districts.

Now I wish to speak to my second concern - the lack of a continuation grant category. In 1976, my district was awarded a basic grant under the Emergency School Aid Act. With the funds awarded, we have implemented what appears to be an effective reading program in five of our schools. But, given the complexities and bureacratic time lags of public administration, educational administration, unionization, community input and urbanization is it reasonable to assume that a program funded from mid July 1976 to June 30, 1977 has really been in operation for one school year? In any enterprise, public or private, the start-up operation is a time consuming and critical process. In public agencies, the start-up time is generally greater because of legal and bureacratic hurdles. The result is that programs scheduled to begin in September cannot be fully operative until later in the school year. Yet it is expected that the program will yield critically substantial results; results that are so substantial a district will elect to reorganize its already under financed fiscal plans to incorporate the program initiated with external funds. This is not realistic. E.S.A.A. should not develop the practice of funding long range programs, but there must be a provision to extend programs with promising results beyond a one year period.

In conclusion, I would leave these two recommendations.

1. The Emergency School Aid Act should make provisions for the participation of predominantly minority school districts that have few realistic opportunities to attract non-minority pupils.
2. Provisions should be made to extend effective E.S.A.A. funded programs for a two or three year period.

1976

TABLE 5

PUPIL ACHIEVEMENT LEVELS --- BY DISTRICT - 1976

DISTRICT	TESTED*	AT & ABOVE GRADE	BELOW GRADE 0-1 YEAR	BELOW GRADE 1-2 YEARS	BELOW GRADE 2 YEARS +	N.E.
1	10,027	26.1	16.1	21.6	30.2	6.0
2	14,805	51.0	14.8	14.2	14.8	5.2
3	11,953	32.1	15.5	18.7	22.3	11.4
4	11,551	27.9	16.3	23.5	30.6	1.7
5	12,410	32.2	18.4	21.6	25.7	2.1
6	13,376	31.0	15.8	19.9	24.2	9.1
7	15,362	26.4	16.2	23.6	26.8	7.0
8	20,011	36.8	8.1	20.1	22.0	3.0
9	26,210	26.0	18.3	25.0	25.0	5.7
10	22,136	38.1	15.2	18.6	22.8	5.3
11	18,772	52.3	16.7	15.6	14.4	1.0
12	16,275	27.3	16.9	22.5	25.9	7.4
13	14,814	36.8	19.8	19.9	20.5	3.0
14	17,009	32.0	17.8	19.7	24.8	5.7
15	16,721	33.6	17.7	18.6	23.0	7.1
16	11,471	38.7	19.6	20.8	19.9	1.0
17	19,726	39.5	19.0	18.5	18.0	5.0
18	15,676	50.9	14.7	13.1	19.1	2.2
19	19,505	29.5	17.0	21.9	26.7	4.9
20	18,753	53.5	15.2	13.1	14.2	4.0
21	18,233	55.9	15.8	13.7	11.9	2.7
22	17,506	63.8	14.3	12.3	8.4	1.2
23	12,280	24.4	18.7	25.4	28.1	3.4
32	14,041	30.2	17.5	21.4	24.8	6.1
24	18,956	51.7	15.5	13.5	13.2	6.1
25	17,623	68.4	12.6	9.6	7.1	2.3
26	12,194	71.9	12.2	9.0	6.3	0.6
27	20,708	48.3	16.9	17.4	15.9	1.5
28	17,225	50.0	16.9	17.2	14.0	1.9
29	18,983	49.5	17.8	16.6	15.0	1.1
30	17,395	53.2	16.6	12.7	11.5	6.0
31	28,737	65.6	14.1	11.2	8.4	0.7
78	45,760	33.3	9.0	10.8	43.8	3.1
CITY	586,204	42.6	15.9	17.0	20.6	3.9

* Includes Non-English Pupils

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PUPIL ACHIEVEMENT LEVELS --- BY DISTRICT APRIL, 1975

DISTRICT	REGISTER	AT & ABOVE GRADE	BELOW GRADE 0-1 YEAR	BELOW GRADE 1-2 YEARS	BELOW GRADE 2 YEARS +	
1	11,760	27.6	17.7	21.1	26.8	6.8
2	16,676	52.6	15.5	13.6	14.8	3.5
3	13,592	33.9	17.6	20.5	20.6	7.4
4	12,326	28.3	20.4	23.4	26.9	1.0
5	14,447	31.4	21.9	22.3	22.6	1.8
6	14,352	33.6	17.2	17.4	17.2	14.6
7	18,704	27.8	19.1	23.0	24.5	5.6
8	23,744	40.0	19.6	19.0	17.6	3.8
9	28,229	29.9	21.3	23.8	20.3	4.7
10	24,398	40.3	16.3	17.4	20.7	5.3
11	20,439	56.2	17.9	13.7	11.3	0.9
12	21,159	29.1	20.1	22.9	22.7	5.2
13	16,645	35.4	21.1	21.6	19.2	2.7
14	19,330	34.4	20.3	20.2	21.3	3.8
15	19,275	35.7	19.9	19.7	21.1	3.6
16	13,469	36.3	21.8	21.7	19.9	0.3
17	20,732	40.7	20.1	19.0	16.4	3.8
18	16,939	54.8	15.6	12.4	15.6	1.6
19	21,678	30.6	19.1	22.9	23.5	3.9
20	20,362	56.1	16.0	12.1	11.6	4.2
21	20,173	58.8	16.0	12.6	10.3	2.3
22	19,968	67.9	15.1	9.9	6.1	1.0
23	14,611	27.0	20.2	25.4	25.0	2.4
32	10,813	28.7	18.5	21.9	22.3	8.6
24	20,224	54.6	16.1	12.4	10.5	6.4
25	19,298	72.4	12.8	7.9	5.1	1.8
26	13,595	74.7	12.5	7.5	4.6	0.7
27	22,312	51.2	17.8	16.9	12.9	1.2
28	18,817	53.5	16.8	14.6	12.5	2.6
29	20,093	51.[illegible]	19.6	16.1	11.2	1.5
30	18,544	[illegible]	16.9	12.0	8.3	5.7
31	30,586	68.[illegible]	15.0	9.6	6.2	0.6
78	61,405	39.6	9.2	9.4	37.6	4.2
CITY	658,695	45.2	17.3	16.4	17.5	3.6

1974

TABLE 4

PUPIL ACHIEVEMENT LEVELS ------- BY DISTRICT

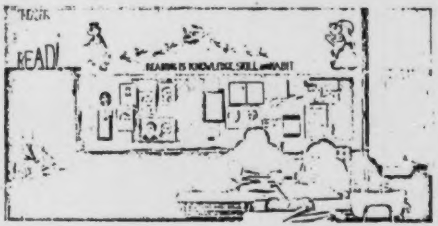
District	Reg.	At & Above	Pupil Achievement by Levels - Below Grade			
			0-1 yr.	1-2 yrs.	2 yrs.+	N.E.
1	16,295	18.6	17.2	21.9	36.8	5.5
2	21,554	36.8	17.3	16.6	23.6	5.7
3	19,122	22.8	19.4	20.3	29.4	8.1
4	16,479	15.3	19.4	23.2	35.4	6.7
5	19,786	22.4	21.1	23.0	31.7	1.8
6	18,050	24.1	17.6	18.6	25.5	14.2
7	26,028	17.9	18.3	20.6	33.7	9.5
8	31,217	26.5	20.9	20.0	27.7	4.9
9	37,013	21.5	21.4	23.0	28.2	5.9
10	29,304	33.5	17.4	18.0	25.1	6.0
11	26,758	43.1	21.6	17.0	17.0	1.3
12	29,737	19.8	21.6	21.7	29.2	7.7
13	22,337	22.9	22.2	22.6	29.4	2.9
14	26,654	20.6	19.5	20.8	32.9	6.2
15	25,122	24.6	20.8	20.2	29.7	4.7
16	18,259	29.0	22.6	21.3	25.3	1.8
17	26,142	28.3	22.7	21.1	24.0	3.9
18	20,182	44.1	16.5	15.2	22.2	2.0
19	29,677	22.1	20.9	22.5	29.6	4.9
20	26,406	40.9	18.6	16.2	19.0	5.3
21	26,080	44.7	19.8	16.2	17.2	2.1
22	26,290	57.5	18.5	12.5	10.5	1.0
23	20,053	17.4	22,0	25.7	31.6	3.3
32	21,235	18.6	20.0	20.4	29.7	11.3
24	24,418	41.5	19.4	15.9	16.8	6.4
25	25,349	59.6	18.6	11.7	7.8	2.3
26	18,259	62.7	16.6	11.2	9.0	0.5
27	29,280	41.1	21.8	18.4	17.0	1.7
28	25,450	43.2	19.7	15.7	18.9	2.5
29	26,206	41.0	21.2	18.2	17.9	1.7
30	23,550	40.4	21.3	16.4	15.7	6.2
31	39,928	54.5	20.3	13.5	10.9	0.8
City	792,220	33.8	20.0	18.6	23.1	4.5

Reading

School year 1975-76 was another year in which the teaching of Reading was given an especial emphasis by School District 13. As a result of this effort we can point with pride to the fact that this District has not only turned the corner of the decline in Reading grades, but also it is demonstrating a consistent and measurable growth.

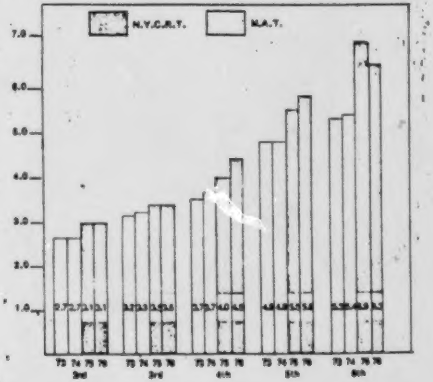
The growth depicted can be traced directly to the diagnostic-prescriptive approach which School District 13 utilized to analyze the basic nature of problems in Reading.

The tables below represent the grade equivalent means of our pupils, grade 2-6, on the 1975-76 New York City Reading Test.


READ!
READING IS KNOWLEDGE, SKILL and HABIT

NEW YORK CITY READING TESTS
1975 - 1976
Grade Scores

1975					1976				
Grade	Mean	Number Tested	Number at or Above level	%	Grade	Mean	Number Tested	Number at or Above level	%
2	3.1	2,083	1,109	53.	2	3.1	1,932	1,042	54.0
3	3.5	2,342	877	38.	3	3.5	2,009	781	39.
4	4.2	2,441	720	29.	4	4.6	2,211	893	40.
5	5.3	2,363	997	42.	5	5.8	2,253	1,066	47.
6	5.9	2,043	839	41.	6	6.3	2,115	820	38.8
TOTAL		11,172	4,539	40.6			10,814	4,618	42.7



Mr. **HEFTEL.** Thank you, Dr. Harris. It would be helpful for us to look at the common denominator you are telling us. I think you are all telling us you would like to have a three-year program, that we are wasting money and time when we don't know whether we can plan for more than one year at a time.

Secondly, we should not allocate funds on the basis of everyone competing regardless of size and district. This matter needs to be reconsidered so there is consideration for the size of the district to compete for the funds. I think all of you would like to see more funds in the program, particularly if the program is effective.

There is some disagreement that is quite obvious. Dr. Harris says the program is not geared for the needs of the minorities and his district can't compete for the funds. But we have nothing that pertains to the minority program. Is that it, Dr. Harris?

Dr. **HARRIS.** Yes.

Mr. **HEFTEL.** That is a problem that should be addressed almost by itself, perhaps.

There seems to be one other area about which I hear and that is that the superintendents of a specific district would like to deal directly with the Federal Administration and the grants go directly to the superintendents as opposed to the State.

Is this a common denominator among all the participants?

Mr. **HOOTEN.** Yes.

Dr. **SHELTON.** We have no experience the other way. We have good relationships at the State level. It works very well as it is. A practice, if it is working, let us not mess with it at the moment.

Dr. **FREEMAN.** I am not sure I understood your last point.

Mr. **HEFTEL.** Is there a feeling that you would like to see the funds go directly to the school district as opposed to the State which would then disseminate the funds to the school district?

Dr. **FREEMAN.** I should say in practice, in our school district, there is a State sort of flowthrough and sanction but, really, most of our negotiations and work have been with the Regional Office of Education at the Federal level. We have not found a problem with that.

Mr. **HEFTEL.** I gather Mr. Hooten was telling us, I think, that he wanted to see it directly allocated from the Federal level to the superintendent, not flowing through the State.

Mr. **HOOTEN.** Yes, sir. That is the way it is being done now. And the superintendents who have spoken to me, and most of them in our region have, say they prefer this method of funding ESAA, rather than the other method of going through States, as some Federal programs do. They say it is a much greater hassle and much more difficult to deal with the State people than it is with the Federal. So I think that speaks highly of the Federal program.

And U.S. regional offices of education who, by the way, have done an outstanding job, at least in our region.

Dr. **SHELTON.** I think I would prefer very strongly the direct grant. It would eliminate any red tape, paperwork and any layers of administration that would have to come in there.

Mr. **HEFTEL.** The reason it becomes important is because we have heard so much testimony on programs which are funded through the State and so much of the energy and time is dissipated before it even gets to the school level. You are an example of why Federal grants should be going to the district, to the superintendent as opposed to the State level.

Mrs. Chisholm, while you are with us, would you like to address a few questions to the panel?

Mrs. CHISHOLM. Thank you very much. One of the purposes of the Emergency School Aid Act was to reduce the effects of minority group isolation. Now, we see that the problem is arising more out of a plan to integrate a district which is suddenly moving away from one of the purposes of the Emergency School Aid Act.

Dr. Harris, given the Act, it is difficult for certain areas in the country to overcome the minority isolation problem. What would be your suggestions, if you do have any, in terms of the urban setting to overcome this, given the housing patterns and socioeconomic patterns with one particular ethnic group living in a district as contrasted to others?

Dr. HARRIS. You have to recognize they don't want to come to our schools because the schools don't have all the programs or the extra kinds of things or the reading performance is not coming up to level.

I am convinced the educational achievement in our district can be as high as anyplace in the country. Our records over the past three years show we can reach that level.

One thing we have to do is remove the excuses the majority gives for not participating in the public school system. They still come to Brooklyn Tech, which is known all over the country. It has, at the present time, more than 50 percent minority students, but the others, as they are called, still come because they recognize there is a quality educational program and it makes it worthwhile for the others to associate with us, so to speak. I think we have to, particularly in New York—if they are using the ESAA funds in District 2, which they are—come up with something creative and innovative. Then my parents are moving because I can't give them that; and I can't give them that because I am not even eligible to apply for those kinds of funds. I think we have to recognize, minority isolation has been devastating in the minority community. We have to put equal emphasis on those schools if they are ever to be integrated into our society. They must be competitive with the rest of the community.

Mrs. CHISHOLM. Therefore, if I am paraphrasing what you are saying, one of the ways we can perhaps move away from minority isolation in our schools, in spite of the ethnic makeup in the communities, in spite of the different groups living in the area, would be to concentrate the ESAA funds in terms of helping to uplift those programs in those areas so that you will be able to have the kind of attraction that will bring in other ethnic groups to that community.

As you have just mentioned, in spite of the location of Brooklyn Tech, look at the kinds of persons coming in from all over to attend Brooklyn Tech.

We must think in terms of whether we are really talking about having the different groups of young people of different ethnic groups actually having this kind of living and educational experience. We have to concentrate on the resources, equipment and materials so that perhaps, in a sense, we don't have to constantly talk about busing, which conjures up certain types of emotionalisms in people who don't want to send their people to those schools for one reason or another.

Given the housing patterns in this nation where we know the schools will be reflective of the community, we should then concentrate on making those minority schools where we can have the willing and voluntary exchange of pupils.

Dr. **Harris**. Yes. More important than that, in my area because I have Brooklyn Heights, which is a little corner of affluence, whites are coming back into the neighborhood and buying the brownstones. One thing we have going for us, even though those parents are paying for the brownstones, they are suffering to pay $3,000 for private schools. If I am able to offer an all-day kindergarten, or a truly gifted type program, they will come because they are getting down to the test. In our society money is hard and they are coming down to the test. I think during the next three to five years we will be able to attract many of those parents if we are able to put in some of these types of enrichment programs and encourage them to come out of the private schools.

Mr. **Heftel**. Dr. Shelton.

Dr. **Shelton**. I am a little concerned. Aren't the ESAA funds for the purposes that we talked about, Title I, right-to-read funds, aren't they for other purposes and would be available to your district? If we start overlapping these funds, won't we be in a position where we won't be able to accomplish—

Mr. **Heftel**. I think we ought to go back and say something which some of you alluded to. We are past the word, "emergency." I think now we should be addressing ourselves to three district matters. First, the court ordered district, where the court has said, "You must integrate"; secondly, the voluntary integration, where it is not being done under a court order; and, third, the minority school problem which you are describing, Dr. Harris, which needs funding for the problems you have from the Federal level because the method of funding education through real estate taxes, for example, makes it impossible for the minority school district to have funds to run a competitive system, because you don't have a base from which to do it.

I think we have come to the point where we can say we have passed the emergency stage and we have three areas of public concern as to how to address desegregation problems. Then we have to realize there is also a Title I program and we have to find out where there is duplication. We take a Title I and an emergency program and we take a look at them as to whether or not we need a conversion to the three district program needs I have heard you enumerate to us today and I wonder how you feel about this stage of our development, Dr. Harris, and the rest of you gentlemen.

Dr. **Harris**. The Title I programs, I am not talking about these because these are not a part of ESAA directly.

What I am saying is there has been a clear change this year which prohibits us from applying for the basic grants. I could apply last yer but I couldn't this year. That says to me there has been a philosophical shift which says we wish ESAA to be directed more towards desegregation efforts than to reducing the effects of minority isolation.

As I read the Act, the reduction of minority isolation was a clear part of it, initially. I am saying either this mental management, they tell me I can't apply for the basic ones because I don't have the other population in my district.

Mr. **Heftel**. And that is a problem which must be addressed.

Dr. **Harris**. That is why I am saying, therefore, with the two original purposes it has been decided somewhere that one purpose is more important than the other purpose. By deciding that, you are affecting districts like mine.

Mr. **Heftel**. I am not sure a decision was made. I just don't think anyone focused on the problem you expressed.

Dr. Shelton.

Dr. **Shelton**. I think he is correct. The problem he has, and if you address this in this Act, will add to our plea for additional funding. We are talking about massive infusions of money, I think you are talking about a billion-dollar program. The sooner you solve these problems, the much better effect you will have on this country, long range. But you are talking about something which will take considerably more money. I emphasize what he has said.

Dr. **Harris**. I am not speaking of the billions of dollars, more money is always necessary. If you give me the basic amount we can compete and do a good job. But it is people.

As I said earlier, someway or another, as you give a district money, they have to dance to the music. Somebody has to give them the music.

To me, it is not quite fair if these districts haven't done what they can do with their own resources. We don't have to bust teachers. Teachers can go there unless you talk about Los Angeles, but the teacher's staff can be integrated. If you are giving out the integration money we ought to see what that district is doing on its own as to its desegregation program. I don't think ESAA is supposed to do it all.

I am saying whatever the pot is now, don't cut me out of the pot; give me part of the pot.

Mr. **Hooten**. Speaking of the correlation of Federal programs to fill the gaps and meet the need, I think you were correct, Mr. Heftel, that this needs to be done as circumstances change. Dr. Bill Holcombe of Columbia, South Carolina, may I ask for your permission for him to speak on that?

Dr. **Holcombe**. The Title I program in our district is a very large one. I represent a very large urban school system. The time is with us when we can make significant progress in obtaining racially integrated systems in cities of 200,000 to 300,000. I think we have failed to do this in large cities where we have allowed things to go too far there.

But we are continuing at this moment to lose white population and gain black. Three years ago, it was 60 percent; two years ago, 62 percent; last year 64 percent.

If this trend continues, we will be ineligible for ESAA funds. Sitting right next to us are three systems which consist of a majority of white. They have approached the necessary level to qualify for ESAA once we become ineligible, but we are the major core system. We have to be very careful that ESAA is not written in such a way that we lose eligibility in our large urban areas. I agree with Dr. Harris on this. We have to also be careful we don't use different funds for different purposes. Our Title I funds are extremely important and we are doing important work with them. Our ESAA funds are being used in other areas. We have some districts 30 miles from the city which are ineligible for ESAA funds because of the high population of blacks in that area.

We nave to be careful that we don't build one program on top of the other with exactly the same kind of program; but, at the same time, I must caution that we must not allow those school systems to become more racially isolated and, therefore, let our neighbors become ineligible for the funds.

Mr. Heftel. We can't lose sight of whether or not we need an additional program itself within ESAA.

Dr. Shelton.

Dr. Shelton. School districts such as ours will have a continuing need. We are not as they are, we are urban, we have the city, we are suburban, and we are rural. What he is talking about won't occur. We don't have the white flight and fortunately we don't have the white flight to private schools. Maybe we are doing a better job.

There are things you can do with local money. Our staff of all kinds was completely desegregated prior to the court order without any funds other than local. But when it comes to busing, we bus 60,000 pupils daily, 43,000 miles a day, out of a population of 115,000.

For desegregation purposes our annual cost is $2.5 million. For this we have no funds to cover, this comes from local funds. We do need the ESAA funds to do the things we were unable to do to use our resources for other things. We had a one-shot purchase of buses costing $1 million when the busing program started. Those buses are now worn out. But we have a continuing need.

Mr. Heftel. Dr. Shelton, how would you distinguish between a bilingual program under Title VII and one under ESAA of your school system?

Mr. Quie. How about throwing Title I in, too?

Mr. Heftel. I had already done that. If you want to include Title I and Title VII in terms of where you distinguish in a bilingual program in the funding of those programs.

Dr. Shelton. I can only comment as to our experience under Title VII, our experience has been following the Lau decision. We were not involved at that time. Our Title I monies are not used for bilingual except for all youngsters. That may not be a good answer. I have a problem with a bilingual program but I think we will be working that out. Many persons don't want a bilingual program, their parents want them to learn English as soon as they can.

Mr. Heftel. Mr. Quie has joined us and would like to address some questions to the panel.

Mr. Quie. The criticism I hear is that Title I, bilingual, and emergency school aid are all providing the same thing—basic skills. I was told that one student spent a period of time in school under Title I, a period of time in bilingual and a period of the day in emergency school aid. He was reallly bored because he was learning the same thing in all three of them.

Dr. Shelton. We have no overlapping. We have a bilingual grant and good support in the ESAA program. We don't have a conflict.

Mr. Bing is here and maybe he can respond to that.

Mr. Quie. You don't use any of your ESAA money for basic skills?

Dr. Shelton. We have, but basically it is in the elementary schools.

Mr. Bing.

Mr. Bing. We are under court order, under the Lau decision as it relates to bilingual education in developing a comprehensive plan for bilingual education.

It mandates the students be taught in their native language for three hours plus one hour in English. This entails two-thirds of the school day.

The basic programs we provide under Title I are keyed in a different direction. They get their actual instruction for three hours in their native language.

Mr. Quie. What do they get under Title I?

Mr. Bing. They don't get Title I.

Mr. Hooten. Two of our superintendents here would like to speak to this question.

Dr. Holcombe. Let me just answer, we are talking about a different population. It certainly should not have happened. You are dealing with Title I students living in poverty stricken homes. As to this group, it represents the bottom quartile, or 25 percent of your students. ESAA deals with the third quartile. Then you are dealing with bilingual in terms of those extremely bright youngsters. We have tested some of our bilingual and we find them to be, in general aptitude and ability, to be the very best in our school system.

Mr. Quie. This is the school district choice. There is nothing in the regulation?

Dr. Holcombe. The regulations, you must start with your most educationally deprived, that is where we are dealing with the fourth quartile.

When we are dealing with schools way out in the far reaches of our district, those are Title I, and 90 percent black schools. We don't put them in that kind of school so you don't have any overlap at all. But where you do have the same programs in the same school you deal with the most economically deprived, ESAA is above that.

Mr. Quie. What would you do if Title I was fully funded?

Dr. Holcombe. I would hate to speculate.

Dr. Freeman. Clap, jump up with cheer.

Dr. Holcombe. I would be delighted if you could find additional monies for Title I.

Mr. Quie. Would you need ESAA?

Dr. Holcombe. We need ESAA more in the business of creating the unitary school system. Title I we would be glad to have but not at the expense of ESAA.

Mr. Quie. It seems to me what I heard you say is if you have ESAA and Title I in the same school, there is no overlap because ESAA doesn't reach that fourth quartile, that group is reached by Title I.

Dr. HOLCOMBE. That is correct.

Mr. QUIE. I assume there are some students in the fourth quartile suffering from the effects of desegregation. Why have you denied them the benefits of the program?

Dr. HOLCOMBE. We are doing that with Title I funds. There are certain aspects which do overlap for all students, for example, one of the problems is loss of students to private schools. We see real estate ads which say move into such and such a district which just happens to be all white. So we have an ESAA program which helps us to attract the white students back into the system. We have worked with real estate agents and this, in effect, helps all students.

Where we are developing basic skills, mathematics, reading, we restrict those because we don't want to give the students that kind of training twice. We use the Title I youngsters to include only the fourth quartile. We used the ESAA funds because here was another group which needed to move toward the national range. We did that to be able to use both effectively.

Mr. QUIE. Mr. Harris.

Dr. HARRIS. One comment on the point which he brought up which strengthens what I was saying. It is my contention those two black schools that only get Title I funds, they are racially isolated and should be entitled to ESAA funds.

If you come back to the chart, you will see the reading scores under Title I. We don't service all the kids that are eligible. Basically, we try to make certain these kids who are two years or more below receive Title I.

Mr. QUIE. Are some of your schools Title I target schools and some are not?

Dr. HARRIS. I am not unfortunate. All of mine are but some of the kids are Title I eligible and some are not which is based mainly on this chart we have on the back of the statement. We use the Title I for the bilingual students.

Mr. QUIE. For the quartile students who have limited English-speaking ability, don't get Title VII and any of the first or second quartile with limited English-speaking ability don't get Title VII.

Dr. HARRIS. We have to monitor to see that the kid gets most of his education from the tax levied program. If he gets Title I and Title VII and ESAA then the Federal Government is running our basic educational program. Title I is supposed to be adding to the basic program. If we add Title VII and ESAA, then we have replaced the tax program which is supposed to be the mainstay of the educational program.

The ESAA program, we can pretty well write guidelines for dealing with the upper group of kids.

Mr. QUIE. Your testimony is helpful to me. I don't think the Congress knew this was the way it was operating out in the field.

It was strange to me to find a GAO study indicating that less than a third of the children in the bilingual program were of limited English-speaking ability. If all of these programs (Title I, ESAA, Bilingual Education) are really compensatory educational programs and you use them for different groups of children, it seems you have accomplished the same thing; you have just expanded Title I.

Dr. HARRIS. If Title I was funded to take care of all the kids eligible, I would agree. Therefore, you have to have some justification as to who you are going to service. You go all the way to the bottom and that is Title I.

Mr. QUIE. But you are saying if Title I was funded to take care of all the Title I children, you wouldn't need ESAA?

Dr. HARRIS. It wouldn't take care of ESAA because I see that as more the frosting on the cake. It is really not a remediation thing in my district.

Mr. QUIE. I may want to use a term different than the frosting on the cake,

Dr. HARRIS. The frosting is important if you are going to deal with the purposes of the ESAA legislation.

Mr. QUIE. Rather than quibble about using that term, let us look at what you think the purposes of ESAA are, that you would be using it for, if Title I was funded so that every Title I eligible child would benefit.

Dr. HARRIS. Every Title I child would benefit. Therefore, ESAA in that State would be used to deal with those on grade level. Psychologically, in a district like mine, we try to educate them so we remove the apprehension that others have from being educated with them.

Mr. QUIE. Go a little bit further on that; put a little more meat on that subject.

Dr. HARRIS. You have to understand the kind of district I have. What I have to do is make a black school system attractive to others. Therefore, what others are saying is that I don't want my child there if 80 percent of the time is for remediation, if there is no enrichment. I find a large percent of others and some of us tend to think all our kids are gifted and they are demanding we do something for that end of the spectrum. If you do something for that end of the spectrum you would attract whites in that distrrict.

You can have an all-day kindergarten to get whites, if you have a really gifted program, then whites would come into the district for that particular program.

Mr. HEFTEL. Mr. Quie, we are going to have limited time from here on in. Do you want to have Dr. Hooten respond to a particular question? Go ahead.

Mr. QUIE. If we funded your schools so they would, in fact, be attracting white students, don't you think other places in the nation would want the Federal Government to help them so they would be up to that level too?

Dr. HARRIS. Sure, they would, and that is what you are doing for everybody except me.

Mr. QUIE. Not the Federal Government.

Dr. HARRIS. Yes. ESAA is being used in other school districts as a magnet because it is allowing a lot of those districts to offer things they wouldn't otherwise be able to offer. I am saying when you eliminate a district such as mine you are eliminating me from doing that.

Mr. QUIE. Some of the districts are doing it because the court told them they had to do it.

Dr. Shelton. Yes, the court has told us to desegregate. We have. I think we have done so very successfully. But we have youngsters together, basically black and white, who have not been together and they come from different communities, they don't live together if they go to school together. They don't understand each other. We use ESAA basically for human relations, for understanding, for the elimination of myths, the reduction of tensions, the understanding of different cultures and backgrounds. This is basically the way we use the ESAA program. That is not frosting on the cake when you put people together who don't live together basically most of the year.

Mr. Bing.

Mr. Bing. The solution to Dr. Harris' problem is under ESAA because he has a problem of educational deprivation.

The intent of Congress under ESEA was as to court orders.

We are interested in providing equal opportunities for youngsters and setting them up in desegregation programs. Your problem is one of educational deprivation. The solution would seem to be under Title I, which has nothing to do with ESAA.

This country is still faced with the problem of providing for its students' inherent constitutional rights as it relates to education. This is the purpose of ESAA to help those districts to do this.

For you to suggest the diversion of monies designated one purpose——and, by the way, you are also eligible for a power program under ESEA since you have a predominantly black population; right to read, for instance, under Title I.

But don't muddy the waters by trying to divert Congress to do something else.

Dr. Harris. You are having problems. Here is the Act. The Congress has indicated the purpose of this Act is the elimination and prevention of isolation of minority groups. This is the purpose. I did not write this.

Don't tell me what the purpose is when here is the thing right before me.

Mr. Bing. I—

Dr. Harris. Wait a minute, brother—I use that lightly. I will agree with you that you may have a different set of problems in your area of the country than I have in mine. Once mine gets together I don't have to deal too much with the human relations type of thing. That is not that much of a problem with me; but don't cut me out, telling me the purpose of the program. That is not the purpose of Title I that you gave. This is the purpose of ESAA right here and I would encourage all of you to read this thing.

Mr. Quie. Mr. Hooten and Dr. Freeman.

Mr. Hooten. There are two school superintendents who would like to make very brief remarks to some of the questions raised by Mr. Quie. May I ask your permission for Mr. Bushong and Mrs. Fournier to come forward?

Mr. Bushong. As you know, Title I children, the eligibility is determined by AFDC roles in particular schools.

Mr. Quie. No; I beg to differ with you. The money gets there that way, but once it gets into the school it could be used to help a millionaire's son.

Mr. BUSHONG. What happens in some of our school districts is that the schools, because of court ordered busing, don't have enough children to make that school eligible to receive Title I funds. However, these same minority children are bused out of that area into another area and they can no longer receive these Title I funds.

What we do then is try to interface our Title I programs with our ESAA programs in terms of remedial services and other things the superintendents have mentioned.

Mr. QUIE. That is the problem I have. The studies indicate two-thirds of the ESAA monies are used for basic skills and I don't thik the Congress ever intended that be the way it operate. I think there is something wrong with Title I that the money can't follow a child. Mr. Harris stated the purposes of the Act, that's what I thought it was going to be used for.

Mr. BUSHONG. Following ESAP in 1971 when ESAA came into existence, the people in Region 4 in Atlanta were told at that time we could have ESAA funds and you could do whatever you wanted to with them, as long as you had a remedial reading program. It appears to us from Columbus, Georgia, after about two years of flexibility to satisfy the intent of the law as designed, that we are again being pressured into strictly remedial programs and they are taking away some of our flexibility through the review panels and regional offices. I think I need to get that on the record in terms of the committee.

Mr. HOOTEN. Mrs. Fournier.

Mrs. FOURNIER. Honorable gentlemen, I have a very brief remark; I will watch the clock, too.

I am from Mobile, Alabama, the school district stretches 72 miles long. We desegregated under court order and I don't mind saying, we are in court again, the fifth, to see if we can't desegregate the city and county commissioners.

Let me tell you what happened in Mobile County as it relates to minority children. We closed some schools where we had 1600 all black children. We divided them into five non-contiguous school districts. Some of those children are bused as far as nine miles from their homes every day into districts which are high socioeconomic districts in order for them to receive a quality education.

Once they enter those school doors, those schools no longer qualify under Title I, all the privileges, the school programs, the dental program, the breakfast program, everything which goes with Title II, they no longer qualify for it. That is the problem.

I want to know, do you want to penalize the minority children of this country in order to have our systems declared unitary? This is what is happening and we need to take a long, hard look at it. I am here in support of ESAA. I am not anti-anything. I am here in support of ESAA because of its flexibility with the basic program and the Title IV program.

We have been told we no longer have human relations problems in Mobile, but the record will show we are in court today.

I am in support of ESAA because it is flexible for us to put it into schools where there is a need either under the basic program or the pilot program.

I am sympathetic with Dr. Harris; I am being faced with the same problem.

Because of white flight, even when we desegregate, we get some white flight.

I am asking you to look at what the record says; see what you are doing. You are locking us in or blocking them out but we are talking about the children, not necessarily just the children of the South but the children of these United States. If I speak from a southern perspective it is because I speak with pride as to the leadership which the South has produced for this nation. I ask you to look around. We have given you your leadership; please don't put a damper on the flame which has been lighted.

Mr. **Quie**. Would you make certain we have your name and address because I want you to testify on Title I when it comes up.

Mrs. **Fournier**. I have had a position statement delivered, 50 copies. (See appendix 8). I spoke from a tri-minority perspective. I am black, female and I am southern.

Mr. **Heftel**. Mr. Buchanan.

Mr. **Buchanan**. I want to say to my fellow Alabamans you might want to stand up and cheer as to her testimony.

Mr. **Quie**. May I say something about the need for Title I? I think it is horrendous we don't allow the money to follow the child. I hope we will have field hearings, too. I would like to have some of our committee see the school system in Mobile, from what you have said here. What strikes me in Title I, is the survey by the Census Bureau. In the 1975 census information, Alabama will lose 48 percent of its money. I think that ought to be on the record for us to take a look at as to the problems which exist.

Mr. Freeman.

Dr. **Freeman**. I couldn't follow that.

Mr. **Heftel**. I think it is apparent that we have had some very valuable insights from your participation and obviously, we have to take a look at Title I. Probably more important we have to look at the problems and then figure out the solutions. We should quit trying to figure out how to make these programs apply to one set of problems, when the programs were devised for a different set of problems. That is what we are hearing, the problems of change. You are trying to twist the problems to fit the changing situations and that is what we have to address ourselves to.

Mr. **Quie**. If any of you wonder about the differences of opinion you have heard and how that impacts on the committee, let me tell you as one member, I learn more from that than if you had all gotten together and agreed on what you were going to say. The lowest common denominator type of testimony doesn't tell us much. This has helped clarify the program for us. I want to thank you for standing up and saying what you believe.

Mr. **Heftel**. As a Democrat, I would like to echo the remarks of my Republican colleague.

Thank you very much.

[Whereupon, at 12:05 p.m., the subcommittee was adjourned.]

PART 4: EMERGENCY SCHOOL AID ACT

THURSDAY, JUNE 16, 1977

House of Representatives,
Subcommittee on Elementary, Secondary
and Vocational Education,
Committee on Education and Labor,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:35 a.m., in Room 2175, Rayburn House Office Building, the Hon. Carl D. Perkins, (chairman of the subcommittee) presiding.

Members present: Representatives Perkins, Heftel, Quie and Goodling.

Staff present: John F. Jennings, majority counsel; Christopher T. Cross, minority senior education consultant; Nancy L. Kober, staff assistant.

Chairman **Perkins**. The committee will come to order.

We are continuing the hearings on the Emergency School Aid Act.

This morning our first witnesses will be a panel, Dr. Arthur Jefferson, General Superintendent of Schools, Detroit; Mr. William L. Lucas, Assistant Superintendent, Government Relations, Los Angeles Unified School District; and Dr. Lyle A. Baker, Federal Programs Coordinator, Minneapolis Public Schools.

Come around, you gentlemen.

STATEMENTS OF DR. ARTHUR JEFFERSON, GENERAL SUPERINTENDENT OF SCHOOLS, DETROIT PUBLIC SCHOOLS; WILLIAM L. LUCAS, ASSISTANT SUPERINTENDENT, GOVERNMENT RELATIONS, LOS ANGELES CITY UNIFIED SCHOOL DISTRICT, ON BEHALF OF DR. JOSIE BAIN, ASSOCIATE SUPERINTENDENT OF INSTRUCTION, LOS ANGELES UNIFIED SCHOOL DISTRICT; AND LYLE A. BAKER, FEDERAL PROGRAMS COORDINATOR, MINNEAPOLIS PUBLIC SCHOOLS

Chairman **Perkins**. We will hear from Dr. Jefferson, first.

Without objection, all your prepared statements will be inserted in the record and you can summarize or testify any way you prefer.

STATEMENT OF DR. ARTHUR JEFFERSON

Dr. **Jefferson**. Thank you, Mr. Chairman and Members of the Education Subcommittee:

My name is Arthur Jefferson and I am General Superintendent of the Detroit Public Schools. I wish to thank the subcommittee for inviting me to testify this morning regarding the Emergency School Aid Act.

I have prepared a document detailing both the accomplishments which we in Detroit have made as a result of ESAA funding as well as some of the problems which we have encountered. I would like at this time to summarize the statements made in that document.

As I'm sure the members of this subcommittee are aware, the desegregation court order handed down in Detroit was and is unique in the nation. Not only were students from majority white schools reassigned, but educational components were ordered to be implemented in all schools of the district in an effort to raise the quality of education which all students in the city receive.

As I shall point out, it was this uniqueness which has caused many funding problems between the district and the United States Office of Education.

To date, Detroit has received four ESAA grants totaling approximately $9 million. As my testimony reveals, each grant was achieved only through extensive bureaucratic involvement and, in some cases, funds were received only through intervention by members of this subcommittee and other Representatives and Senators.

In the testimony, the members will find an extensive description of the activities funded through ESAA. Very briefly, the first special projects grant, received one month after the desegregation process had begun early in 1976, was used for in-service training for teachers and other district staff in the area of teacher expectations of students. The basic grant, received in July of 1976 was used for the improvement of reading in the middle schools of the district and for a home curriculum program for parents to assist the schools in the teaching of reading. The pilot grant, also received in July of 1976, was used to create a curriculum for high school students in the area of practical life skills. These skills could be categorized as basic knowledge that all graduates need to "survive" once they graduate. They include such skills as filling out job applications, balancing check books, finding the best buy in the supermarket, et cetera. The fourth grant, ESAA special projects, was received in October, 1976, and had four components: First, a reading improvement program for elementary school students; a crisis prevention/intervention set of activities; third, a mathematics improvement program for middle school students and, lastly, a guidance and counseling program also designed for the middle school level.

Although each of the above programs was hampered by large reductions in funding requests and late arrival of funds in most instances, each experienced many successes as described in the testimony. A more complete evaluative report will soon be made for the Office of Education and copies will be made for members of this committee.

Most of the problems which I have described in my testimony, revolve around three basic issues: First, the late arrival of funds; second, the unresponsiveness of USOE to special needs of school districts such as Detroit; and third, the new emergency problems caused by the competitive nature of the funding.

With respect to the first problem, the late arrival of funds, both the first and second special projects grants were received far too late to implement the activities relative to the desegregation order of the court in the most effective manner. Much of the delay centered on a difference of opinion between USOE and the district regarding the use of the funds in schools affected by the plan. It was and still is USOE's opinion that the legislative intent of the statute was that the funds were to be used only in those schools where there was a change in the student or faculty racial enrollment as a result of the U.S. District Court order. The district still maintains that since the court order addresses educational improvements to take place in all schools that the funds should therefore be allowed to be used in all schools. This is even consistent with a definition which appears on the OMB approved application forms but which USOE refuses to accept as binding.

I strongly urge the members of this committee to include in any new ESAA legislation a clarification of the legislative intent with regard to this important issue.

The second problem, namely the unresponsiveness of USOE, covers a wide variety of interactions the district has had both with that office as well as the Office for Civil Rights and the Office of General Counsel. There are no deadlines for responses to applicants by any of the above named offices. As a result, our request for waiver of ineligibility, our applications, themselves, and our requests and correspondence throughout the grant year have often been answered only after what seemed like interminable delays allegedly caused by the number of persons needed to review the request, typographical errors made by USOE secretaries and the like.

I urge the members to include in any new legislation requirements whereby the Office of Education (and the Office for Civil Rights) are given definite periods of time in which they must respond to both applications for funds, requests for waivers of ineligibility, and other post-grant requests made by ESAA recipients.

Finally, with respect to the competitive nature of the funding itself, I have tried to explain in my testimony why I feel that this competition actually works against the purposes of the legislation. I'm sure the members of this committee agree with me that every district attempting to desegregate, either voluntarily or through court order, has special needs which can only be met through the Emergency School Aid Act. And yet, because of the competition criteria, many of the smaller districts are actually precluded from receiving any funds because of their size. Further, large districts such as Detroit can and have had their funding requests cut drastically because smaller districts were funded first and only a small portion of the funds were remaining. Many inequities result from this competitive nature and the one-year funding provision.

Therefore, I would respectfully recommend that future ESAA legislation remove this competition and change the funding pattern to a formula basis to the regions of USOE, guaranteeing all districts who are in the desegregation process the resources they need, and, at the same time, guaranteeing the funds on a three-year basis so that long-range goals can be planned and carried out.

It has a very disruptive effect. No matter how beneficial the funds may be for one year, it is very disruptive and in some cases, I would say catastrophic for a district to receive funds for one year then have those funds cut off for a second year.

It doesn't, from our judgment, make educational sense. We would hope this committee will consider some prolonged funding period for districts which do receive the funds.

I want to thank you for inviting me to testify and I hope the rather extensive documentation we have presented to the committee as to our full ESAA programs and some of our prospectives, will be considered by this committee.

[The prepared statement of Dr. Jefferson follows:]

Mr. Chairman and Members of the Committee:

I am Arthur Jefferson, General Superintendent of the Detroit Public Schools. I thank you for the opportunity to come before the House Committee on Education and Labor to testify in support of legislative action to extend and amend the Emergency School Aid Act.

There is no question in my mind that the Emergency School Aid Act (ESAA) has in no small way assisted the Detroit Public Schools to implement a desegregation order of the U.S. District Court in such a way as to engender the support of the citizenry and to serve as a model for the rest of the Nation to follow.

In handing down this order, the Honorable Judge Robert E. DeMascio attempted to effect the desegregation of the school system in ways which took into account "the practicalities of the situation." In a school district where the great majority of the students were Black, Judge DeMascio attempted to accomplish two outcomes: first, the elimination of any situations in which the percentage of white students was seventy percent or greater (and/or the faculty was seventy percent or more of one race); and second, the upgrading of the quality of education for all students in all schools of the district.

Thus, the desegregation court order in Detroit was not simply the massive movement of students from one place to another to achieve an arbitrary racial mix. Rather, it was and is an attempt to achieve goals very similar to those of ESAA--the elimination of racially isolated situations wherever practicable and the elimination of the effects of prior isolation.

I have included as Exhibit 1 of this testimony a synopsis of the court order as prepared by the U.S. District Court Monitoring Commission, a body created by the Court to report to the Judge periodically with respect to the progress the district is making toward the implementation of the entire plan for desegregation. This synopsis briefly described the various "educational components" of the plan which I mentioned earlier as the ways in which the quality of education for all students in the district will be improved.

These components include: Reading and Communication Skills; Inservice Training; Vocational Education; Testing; Student Rights and Responsibilities; Co-Curricular Activities; Counseling and Career Guidance; Bilingual/Multi-Ethnic Studies; and School-Community Relations.

In November of 1975, it was ordered that implementation begin with the second semester of the school year--on January

26, 1977. The district immediately applied for ESAA Special Projects funds to assist in the implementation of the order. Although there were many problems in receiving these funds (which I shall address below) the district was awarded a grant in the amount of $954,066.00 on February 20, 1976. Subsequently, the district has applied for and received the following ESAA grants:

Basic (1976-77): $2,392,642
Pilot (1976-77): $ 904,311
Special Projects (1976-77): $4,092,196

For the coming school year, the district has applied for but has not as yet received (for reasons I shall detail below) the following:

Basic (1977-78): $4,807,313
Pilot (1977-78): $1,189,795
Special Projects (1977-78): $9,709,293

I have included as Exhibit 2 of this testimony several "fact sheets" which summarize the activities of these ESAA projects. Briefly, the first Special Projects grant was used to conduct a very successful series of inservice training sessions for teachers, administrators and other district staff in teacher and staff "expectations" for students. A needs assessment revealed that prior to the implementation of the desegregation court order teachers had different expectations for their Black and White students. Further, the attitudes as expressed by teachers were not shared by either the students or their parents. It was revealed through workshop sessions that once teachers and other staff were able to actually identify these expectations only then would discipline and praise be administered without respect to race, only then would the same type of questions be asked of both races of students, and only then would the expectations of teachers and staff be the same for all the students in the school. This was a most successful project. The sessions were extremely well attended and, in fact, there were "waiting lists" of teachers who wished to attend.

The ESAA Basic Project for this school year had a "middle school" focus. Part of the desegregation court order called for a uniform K-5, 6-8, 9-12 grade structure in all schools in the district. Prior to the issuance of the order, very few schools in Detroit had this grade format. It became evident in our needs assessment for the ESAA Basic Application for funds that intervention was needed immediately at the "middle school" level in the area of Reading. Not only was this subject given one of the highest priorities by Judge DeMascio but the data revealed that by the time the students had finished grade 5, most were two or more years behind grade level. This fact coupled with the almost non-existence of special funding directed at the middle school level convinced the district that the focus must be an extensive reading program for middle school students in which the teaching of reading was "infused" into all curricular areas being taught. Part of this reading program included the development of an objective referenced testing system which would assist the teachers of middle school students in the proper diagnosing and remediation of reading difficulties.

The ESAA Basic effort did not stop, however, with the involvement of only the teachers and the students. It was felt that support must also come from the students' homes. For this reason, a "home-curriculum component" was included in which specialist teachers and aides would assist the parents of the middle school students in the methods which should be used in the home to reinforce and support the educational activities taking place in the middle school itself.

Both parts of the Basic project have been successful thus far. Although hard data is not yet available, it is obvious from the amount and quality of the curriculum which has be produced for the teaching of reading in the various subject areas, from the number of inservice training sessions that have been held and the full turn-outs that have been experienced, from the early indications on questionnaires given to students, teachers, and parents, from the number of home and community visitations that have been made, and from a multitude of other sources, that change has in fact occured at this critical level in the student's educational experience. (As will be pointed out below, however, it is regrettable that even more change could not have happened because of many of the hurdles which the district was forced to "jump" in order to receive ESAA funding.)

The ESAA Pilot Project for this school year had a high school focus. After having administered a test of "Practical Life Skills" developed by Dr. Norville Northcut at the University of Texas, it was found that huge percentages of our high school students could not, by the time they had reached the twelfth grade, perform such basic, practical, survival skills as filling out a job application, or balancing a check book, or determining which brand of a cereal was the best buy, etc. It was felt that there was an emergency need for these secondary school students to possess these and many other basic survival skills before they left the "seclusion" of the high school setting.

For this reason, the district proposed to develop practical life skills objectives, curricular materials and measurement devices for the high school students. Beginning in the summer of 1976 teachers, parents, staff, students and community groups began the development process.

By the end of the school year, large numbers of lesson plans, activities and tests had been developed, field tested and evaluated in the district's high schools. The Practical Life Skills test was also readministered on a post test basis but data are not available as of this date.

Once again, the program was enthusiastically received by the participants--students, teachers, parents and community groups. Much still needs to be done however. The job is a large one indeed. Further, there is no reason to only produce such curricula for the secondary school student although that is the place where the need is the most critical.

The ESAA Special Projects Proposal for the current school year contained four components. The first of these components contained inservice activities for teachers, students and district staff, parents and community groups in the area of "Crisis Prevention/Intervention". As I stated earlier, we in Detroit are extremely proud of the way in which we have implemented a desegregation order of the court. The citizens of Detroit are to be commended for the actions that all have taken to make the effort a successful one.

Problems still existed, however, and will continue to exist in any situation as controversial as desegregation. In an effort to solve these problems while they are still solveable this component was designed to provide a forum for all to gather, express their views, provide outlets for proposed solutions and for the decisions makers to act quickly and appropriately in order to solve the problems which are identified. The "intervention" part of the component was the development of a process which would provide additional and immediate assistance at whatever level that was needed to intervene in those situations which occured despite prevention efforts. It is extremely important to note here that this intervention was not needed during this school year. I am confident the data will reveal that the major reason for this was the prevention activities themselves. (Once again, however, as will be pointed out later, the district was severely restrained from receiving these funds until well into the beginning of the school year.)

The second of the ESAA Special Projects components was an "elementary" version of the practical life skills activities taking place at the high school level under the ESAA Pilot grant. In addition, this elementary component provided additional assistance in the area of reading for elementary school teachers in the same diagnostic/prescriptive procedures being employed at the middle school level under ESAA Basic. In this way, there was developed a continuum of activities for students from kindergarten through the end of their middle school education.

The third of the ESAA Special Projects components was a mathematics improvement project for students at the middle school level. The objective was to improve the level of mathematics achievement of middle school students by increasing the utilization of individualized instruction and by the use of highly motivational strategies in which the students apply the skills in a competitive situation. A tournament structure was designed in which students in their classes, among classes, among schools, regions and city-wide utilized the mathematics they learned in a competitive enviornment. This tournament structure had as its side effects the increase of student attendance, the interaction of students of different races on a very real basis and, I am pleased to report, a great increase in the number of students who indicated that mathematics had become one of the most favorite of their subjects in school. Students from Detroit even completed nationally in a tournament held in Gatlinburg, Tennessee and performed extremely well capturing second place in one event and third in another.

The last of the ESAA Special Projects components was the establishment of Guidance Service Centers in the middle schools of the district. Guidance para-professionals were hired for each middle school whose function included the forming of a guidance team consisting of themselves, key teachers and counselors and parents. This team would then, through the guidance service center facility, relieve the counseling staff from some of the duties which could be performed by the team such as late passes, calls to home, hall and study permission, etc., thus allowing the counseling staff to provide more intensive counseling services to the middle school students. Material on careers and career choices was made available through the center as well, and students (and community) were encouraged to utilize the facility as frequently as possible. The center was made an attractive place to be so that services could in fact be provided to all who desired them. Here too, initial feedback indicates that the component was highly successful as measured by the number of students served, the number of parents involved and the reduction of undesirable incidents which have occured during the year.

This then was the ESAA program in Detroit from January 26, 1976 until now, the end of the first full year of implementation fo the desegregation court order. There is no question in my mind that the ESAA funds themselves were instrumental in the successful nature of the process. The funds made the order and the promises of the district believeable in the eyes of the public. The citizens, the students and the staff realized that desegregation was going to happen and that the major result would be the increase of the level of quality of education for all students in the district. The emergency nature of the situation however, is not over--in fact it may only have begun.

The next section of this testimony addresses the problems which we have faced and are still facing which, if a solution between the U. S. Office of Education and the Detroit Public Schools is not attained, there may be an emergency of a quite different nature. Once programs are begun, once people are hired, once students have experienced quality programs, it is impossible to deny this quality without serious consequences--all to the ultimate detriment of the school system and the community.

I hope that the members of the committee take special note of the problems which I am about to recount. My purpose is not to create ill feelings between the Office of

Education and the district but rather to point out what I feel are decisions which are made without taking into consideration the needs of the recipients of the funds. Also, I hope the committee members take especial note of the way in which the Office of Education has used Congressional intent as the basis of their rationale for certain decisions when, in fact the regulation and statute are silent on particular matters or do not provide adequate definition.

I have tried also to include only the most relevant of exhibits relative to these problems. I would like to also thank once again, those members of Congress some of whom are on this committee for the "red-tape cutting" which they were able to perform in many instances. Your help has been truly appreciated and added significantly to the success described above.

Although the district had been denied ESAA funds since 1972 for a variety of reasons ranging from alleged "poor quality" of proposals to alleged noncompliance with almost every regluation appearing in part 185 of the code of federal regulations, I shall begin the history of the "problem" incident to the application, receipt and expenditure of ESAA funds with November 14, 1975. On that date the district applied for the first special projects grant described earlier in this testimony. We soon learned that that proposal had received one of the highest "point" scores of any proposal ever submitted to the U.S. Office of Education under the Emergency School Aid Act. U.S.O.E. was well aware that the activites described in the proposal were to begin even before the first yellow school bus rolled on January 26, 1976. Included were "dry run" activities for parents and students to calm any fears they may have as well as dissemination efforts to the community to dispel any rumors or false impressions concerning the desegregation process about to begin.

The Office for Civil Rights, however, along with the Office of General Counsel and Office of Education would not allow Detroit to be funded, it turned out, until February 20, 1976 almost one month after the desegregation process had begun and rendered useless may of the above mentioned activities.

As mentioned earlier, one of the ways which was used to deny Detroit ESAA funds in the past was through declarations of ineligibility. In order to overcome this hurdle, the district applied for a waiver of ineligibility at the same time it submitted its application for funds. This application requested a waiver for previous determinations by OCR of violations of 45 CFR 185.43(b)(2), (discrimination in faculty assignment) and 45 CFR 185.43(d)(2), (discrimination against language minority children.)

Curiously enough, the U. S. District Court as far back as 1973 when the first OCR determination was made had found and reported that the district did not have discriminatory practices in teacher assignment. Because Judge DeMascio, however, had issued an order on August 28, 1975 stating a formula for faculty assignment by race and because the district had submitted a bilingual education plan as part of its requirements under other orders of the court, it was felt that the application for waiver would be favorably received at this time and certainly acted upon quickly so that the district could received first EESA funds.

It was not until six weeks later and innumerable telephone calls to anyone who would listen that the Office of Education finally responded by stating (on December 26, 1975) that additional information would have to be supplied before a waiver was granted, and in no case would the matter be resolved prior to January 26, 1976 when the teachers were actually in place and the students were actually bussed. On January 13, 1976, per instructions given by U.S.O.E., the district filed an amended application for waiver; on January 26, 1976 I sent a telegram (as requested) stating that the teachers were actually in place as described in the order of the court.

By now it was already to late to implement many of the proposed activities. And still the Office of Education did not grant funds. All sorts of excuses were offered including one which was stated for an entire week--that the letter to the Secretary of HEW recommending a waiver contained typographical errors and that staff at U.S.O.E. and O.C.R. and O.G.C. were still reviewing its content. One month later, on February 20, 1976, a grant award document was finally prepared. I regret to say that some of the problems which occured during that first month could possibly have been non-existent had the proposed ESAA activities actually occured.

I urge the members of the committee to pause for a moment here and ask themselves the following question: What was gained by U.S.O.E., O.C.R., and O.G.C. by waiting until after the desegregation court order had already been implemented? What assurances did they have in February that were not made in November? Could a reasonable person interpret the delay as being at all productive or serving the needs of anyone?

In the Spring of 1976, the district then applied for ESAA Basic and Pilot funds through the Region V Office of Education in Chicago. As stated in the regulations, an application for funds must receive a minimum "quality" score in order to be considered for funding. The district's Basic application, was rejected by the Chicago office because it fell below this minimum by exactly one-half of one point. The district was told it would have to resubmit its application. Had the district received that one-half point, its score, combined with its quantitative points would have surpassed all other applicants in the region--even those with a perfect qualitative score.

The Region V funds were then distributed to the "successful applicants" and a small amount was reserved for those districts who wished to resubmit their applications. Upon resubmission, the district corrected the errors of its ways and its application then received enough points to be funded. Only 2.3 million dollars was left, however, and thus the district was forced to cut two-thirds of its proposed activities from the plan. Nevertheless, the district received its Basic and Pilot grant awards in July of 1976 and implemented the programs described earlier. And, in the interest of the other districts in Michigan which also had court orders to desegregate, some as far back as 1972, they too were given their share of the ESAA allocation for the State.

I strongly urge the members of the committee at this point to consider the disadvantages of the "competitive" nature of ESAA funding. I recommend that this competition be removed in future ESAA legislation and that a "formula" basis be developed for the distribution of ESAA funds so that 1) large districts such as Detroit do not in fact jeopardize the funding of smaller districts simply because our "quantitative score" cannot be even approximated by the others but also so that 2) larger districts will have adequate funds reserved so that once an acceptable proposal is submitted, there will be adequate resources available.

Although I have, at this point, omitted a great deal of the history of ESAA funding problems in Detroit, I urge the committee members to note carefully the sequence of events which occurs next. The U.S. Office of Education in Washington cited legislative intent for their interpretation of the phrase "schools affected by the plan" and used this interpretation as the reason for the denial of over four million dollars in funds for 1976-77 and the withholding of over fifteen million dollars for 1977-78. I urge the committee members to ask themselves and their colleagues who helped to pass the original legislation if U.S.O.E. has interpreted your intent correctly.

On June 30, 1976, the district applied for a second Special Projects grant of approximately eight million dollars. The proposal received high quality points.

Activities were described which were to begin in the summer of 1976. These activities consisted of inservice training and other preparatory programs so that the program would be fully in place once students returned in September. U.S.O.E. in Washington however, was concerned that the district was going to use the ESAA funds in schools not "affected by the plan." The district attempted to assure U.S.O.E. of two points: first, that under Detroit's Court Order, all schools were affected by the plan in that either students were being bussed, or teachers had been transferred, or grade structure had been changed, or because of the mandating of quality education components in all of the schools of the district; secondly, there was no provision in the statute, the regulations, or the application form and guidelines which carried a different interpretation or definition of this phrase.

Nevertheless, U.S.O.E. maintained that the district could only receive funds for those students in those schools where there was a racial change in enrollment due to the order of the court.

The reason cited by U.S.O.E for this position was the intent of Congress as evidenced by reports in the Congressional Record in the debate of the Second Supplemental Labor-Education appropriations bill (see Exhibit 3).

The district maintained throughout that Detroit's court order was unique in that it was the all white schools which were being desegregated, that all schools were in needs of assistance in order to overcome the effects of minority group isolation and that the Congressional reports cited did not in fact support U.S.O.E.'s position.

The argument continued once again, well into the school year, until finally, at the very last moment when U.S.O.E. could appropriate funds (or turn the money back) on October 1, 1976 a grant award document was prepared. This grant award was for less than half the amount requested by the district. Although U.S.O.E. included a component-by component budget, the district was never told how or why the various amounts were reduced.

I am sure this committee can appreciate that a set of activities, especially activities which involve the hiring of personnel, cannot megically begin the day after a grant award is received. Thus it was well into November and even early December of 1976 when all the personnel described in the reduced proposal were actually "on board." Similarly, I am sure the committee members will understand when I say that the effectiveness of the four components described above had been severely damaged by the interminable delay in the receipt of funds. Most of the components, successful as they were, did not achieve to the level they might have, had the funds been received at the appropriate time.

I strongly urge the members of this committee to insert language in any new ESAA legislation relating to the phrase "affected by the plan" and to clearly spell out the intent of the Congress with regard to the types of schools in which school districts under court order to desegregate may use the funds to achieve the purposes of the Act. Further, I urge the members of Congress to appreciate that all court orders to desegregate are not the same; and that Detroit's unique order should not become a "hindrance" in its effort to achieve Federal assistance for its effective implementation.

It is now June, 1977. Currently, U.S.O.E. is once again holding up all of the district's 1977-78 applications for funds. Although the Basic and Pilot applications were submitted over four months ago as of this writing we have had no written communication detailing that we will be a recipient, or that we won't be a recipient, or that something is or is not missing from or wrong with the applications.

Our Special Projects application was submitted two months ago. The only communication we have received is included as Exhibit 4. This telegram once again indicates that funds are likely to be held once again because of allegations that we are to use the funds in schools not "affected by the plan."

Further, we have "heard" that we are in "legal hold" by the Office for Civil Rights relating to an alleged discriminatory action with respect to one student which has already been corrected! Also, we have "heard" that we will once again be required to apply for a waiver of ineligibility--which if past experiences is any judge, will take several more months--all because of a "formality." This decision was allegedly made by the Region V Office for Civil Rights in Cleveland on May 1, 1977. As yet we have received no correspondence relative to the situation.

Once again, I ask "whose interest is being served?" The children of the Detroit Public Schools will once again be the losers in a bureaucratic maze of decision making and correspondence and protocol.

SUGGESTED LEGISLATIVE MODIFICATIONS

I. May I suggest at this point a possible solution for reducing the delays in decison making? This district is the first to admit that there may be real problems which must be ameliorated before the district is entitled to receive ESAA dollars. All we ask is we be told what the problems are; and told in adequate time to take whatever corrective action is necessary. All through the regulations, applicants and recipients are given only certain numbers of days in order to accomplish a variety of things--submission of application, formation of committees, advertisement of public hearings, etc. Nowhere, however, is U.S.O.E. or O.C.R. required to respond to districts' requests--be they application for funds, requests for budget changes, compliance recommendations, etc. This one-sided requirement is clearly inequitable. I have tried to demonstrate above that the persons who truly suffer as a result of the non-decision-making capability of the bureaucracy of the Office of Education are the very students themselves that the legislation seeks to aid. Finally, it seems ironic that the legislation is designed as emergency in nature (and in title) and yet the emergency waits and is often exacerbated because of the unresponsiveness of the very persons charged with the distribution of the funds!

II. Another feature of other legislation is noticeably lacking from the Emergency School Aid Act. There is an absolute need for a carry-over provision in ESAA. After experiencing the many delays enumerated above, the districts who finally do receive ESAA funds must spend every dollar by the end of the funding period or return the excess to the Office of Education. This is true even though the length of the grant period is two months, six months or one year. I'm sure it is obvious to the members of the committee that large wastes often occur in district's haste to spend. Clearly, a much more effective utilization of the funds would occur if districts were assured of either a carry-over provision in the funds to the next school year, or the "automatic" granting of periods of extension so that the moneys could be put to a rational use. Almost every other Federal funding source has such provisions--especially those such as ESEA which are administered at the State level. I therefore recommend amending the ESAA to include an provision similar to the Tydings amendment of 1968 which introduced carry-over into Title IV of P.L. 90-247.

III. I recommend also that the "competitive" nature of the funding be removed. If the purpose is to aid *all* school districts which are attempting to desegregate, and it is agreed that all in fact have a need for such funds, then the only criteria which should be employed is an application for funds which contains proposed activities "acceptable" to the Office of Education.

There is no purpose served when Detroit and Boston, for example, must compete to see who has the "better" proposal so that one will be granted the funds before the other and the other will get the "left-overs." This is also highly unfair to those districts who are not in the business of writing Federal proposals and whose staffs are not accustomed to the right words to use. Either the need is there or it isn't. Let there be enough funds for *all* to share in and let the districts receive those funds in relation to the size of the student population and the severity of the need--*not* the quality of their proposal as viewed by a non-federal panel of "experts."

IV. Also, let there be a three-year funding cycle so that districts do not have to experience the possibility of tremendous layoffs or cultailment of services because of some new court order granted to another district or because of some bureaucratic decision made or delayed for months at a time. Only when districts can plan for several years at a time will truly effective programs result. Education of children does not occur in one year--it is a long and involved process. To put the needs of children at the yearly whim of a panel of readers and the possible lack of funds due to other court orders is unconscionable.

As I mentioned at the beginning of this testimony, I strongly feel that one of the major reasons why desegregation has "worked" in Detroit is because the school district was able to demonstrate to the public that improved educational programs would in fact be possible and that all students would, in fact, receive a higher quality of educational services.

Let no one think, however, that the emergency is passed. This first full year of desegregation has shown us all how much more there is to be done. It seems ironic that at a time when the city and school district are facing a declining tax base, when voters are as yet unwilling to approve additional or even renewal millage dollars for education and the inflationary spiral is raising the cost of education to heights never imagined, that the situation is exacerbated because of the reduction and withholding of funds by the United States government!

I cannot strongly enough urge Congress and this Committee to intervene by enacting legislation which will cause the Office of Education to be more responsive to the needs of large city school districts such as Detroit. Without full resources and the receipt of funds on time there will be no effective utilization; there will be no effective desegregatory process; there will be a real emergency.

Exhibit 1

SYNOPSIS

BRADLEY v MILLIKEN

Detroit School Desegregation Case #35257

United States District Court

MONITORING COMMISSION

READING AND COMMUNICATION SKILLS

The goal of this component is to promote desegregation by eliminating the effects of past discrimination through a comprehensive reading program. This program will simultaneously facilitate quality education by providing adequate preparation for the acquisition and development of other skills.

The Board of Education designed and the court ordered into effect a comprehensive reading program that will include all youths in the school system and will utilize both standardized instructional materials and contemporary periodicals to improve the reading skills of students. This program will be an integral part of the school program for each youth. The court has ordered that the school develop and use adequate reporting and evaluation instruments as well as assign sufficient trained staff to implement and evaluate this program.

Subsequent to the recommendation of the Monitoring Commission, the court has ordered the Board of Education to provide adequate vision and hearing screening. The court also directed the Board of Education to provide sufficient In-Service training for teachers to enable them to determine when students in their classes may be in need of the visual or hearing services and to permit them to adjust their teaching strategies for students receiving these services so as to compensate for any deficiencies that might exist as a result of eye or hearing defects.

IN-SERVICE TRAINING

It is known that teachers' attitudes toward students are affected by desegregation. These attitutes play a critical part in the atmosphere of a school and affect the pulse of the school system. White and black teachers often have unhealthy expectations of the ability and worth of students of the opposite race. Moreover, it is known that teachers' expectations vary with socio-economic variations among students. These expectations must, through training, be re-oriented to ensure that academic achievement of black students in desegregation is not impeded. A comprehensive In-Service Training program will ensure that all students are treated equally in the educational process. [1]

The court has ordered the Detroit Board of Education to undertake an ongoing In-Service training program -hich will include all school personnel at all schools throughout the school system. This training will include the development of the skills necessary for the successful implementation and administration of the Uniform Code of Student Conduct. Training will also include human relations and teacher expectation training and re-training as well. The investigation and development of new testing and discipline techniques which are germane to a desegregated school system.

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[1] Bradley v Milliken, p.101

VOCATIONAL EDUCATION

"Vocational Education is given high priority in these guidelines because while it is able to compensate for past discrimination, at the same time it serves as an effective tool for desegregation. It can offer both an immediate desegregation setting and help re-establish quality education. It can serve to combat the dropout rate successfully and prepare students for specific work situations in the business world. Finally, it will equip minority students with the knowledge and ability essential to enter occupational trades offer foreclosed to them." [2]

The court directed the Detroit Board of Education and State of Michigan Board of Education to design a plan that would create four (4) Vocational Education Centers and two (2) Technical High Schools in the Detroit Public Schools system. These schools would be under the direct control of the Central Board of Education and would be open and accessible to all students in the Detroit Public School system.

The Vocational Education Centers would be devoted to the training of students to enter the construction trades, health and transportation services and arts and crafts industries. The court instructed the defendant Board of Education to include within the curriculum a grade 13. During this additional year of schooling, students would take advanced courses that would permit them to transfer to community colleges programs or to enter the skilled trades. Technical High Schools would be modeled after Cass Technical High School. The Primary Curriculum offerings would be in the Business Education fields.

In addition, the Board was instructed to review current curriculum offerings and upon the initiation of the Vocational and Technical Schools ensure that no overlapping in curriculum existed.

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[2] Bradley v Milliken, pp. 103-104.

TESTING

The objective of this component in the school desegregation order was to ensure that the testing design, content, and procedures of the Detroit Public Schools are suitable for a desegregated school system. With this objective in mind. The court directed the Board of Education to immediately discontinue the use of culturally biased testing instruments. It further ordered that the Board of Education develop and use culturally-fair testing instruments as well as provide adequate training of staff in the administration of tests to insure non-discriminatory treatment of students.

STUDENT RIGHTS & RESPONSIBILITIES *

"Both students and teachers must feel secure in their person and in their ability to perform their respective functions without fear of undue and unnecessary disruption. No violence, whether against person or property, will be allowed to impede the implementation of the desegregation process."

"It is the court's intention that from the commencement of the 1975-1976 school year the Board must not tolerate violencein any school in the system. ....The Uniform Code of Conduct [must] be administered uniformally without regard to Regional lines."

"While the court is concerned that violence and vandalism do not impede the desegregative process, the court is equally concerned that the rights of the students are fully protected. ....Students must be advised not only of the conduct proscribed, but also of their right to due process when involved in disciplinary procedures." [3]

To effectuate these objectives, the court, on October 29, 1975, ordered the Detroit Board of Education to implement without delay the Uniform Code of Student Conduct.

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* Also see Uniform Code of Student Conduct mailed under separate cover.

[3] Bradley v Milliken, p. 109-110

CO-CURRICULAR ACTIVITIES

"Co-Curricular Activities are essential supportive programs in a system undergoing desegregation. Co-Curricular Activities further desegregate by providing student to student contact and interplay in a desegregated environment". [4]

This component should acquaint students with various institutions in the Detroit area. An example of the institutions which might be utilized are the Detroit Institute of Art, Detroit Public Library, Merrill-Palmer Institute, Wayne State University and Shaw College. The exposure to these institutions may be as brief as a one day field trip for eighth graders to on-sight instruction for talented High School art students at the Detroit Institute of Art.

COUNSELING & CAREER GUIDANCE

"School districts undergoing desegregation inevitably place psychological pressures upon the schools affected. Counselors are essential to provide solutions to the money problems that result from such pressure". [5]

"A comprehensive counseling program can serve as an effective vehicle for repairing the effects of past descrimination. It can aid in the creation of an environment in which children of all races not only attend school together but also learn to understand, respect, and appreciate each others cultures". [6]

The court ordered that the Detroit Board of Education design a counseling plan that would provide for the dissemination of information relevant to current and future career opportunities and past secondary school training. The court further directed the Board of Education to provide for adequate conseling staff to service the social and developmental needs of the students in the Detroit Public Schools. Subsequent to this order, the Board of Education submitted a plan which met the above requirements and provided for counselors at all levels of the school system - elementary through high school. In addition, the Board's plan provided for the introduction of career planning and information dissemination at the elementary school level and in general, a maximizing of counselor - student contact in a guidance oriented setting.

[4] Bradley v Milliken, p. 114

[5] Bradley v Milliken, p. 113

[6] Bradley v Milliken (Memorandum Order & Judgement, May 11, 1976)

After reviewing the Board of Education plan, the court approved and ordered it into effect. The court further ordered the establishment of a Community Guidance Advisory Committee at each school for the purpose of establishing, discussing, and modifying policies with respect to guidance and counseling.

BILINGUAL/MULTI-ETHNIC STUDIES

"Multi-Ethnic Studies are essential elements of the curriculum of any outstanding school system; desegregation serves only to emphasize the need for inclusion of these studies". [7]

The court ordered the Detroit Board of Education to institute a comprehensive Multi-Ethnic Studies program. This program should vitalize numerous ethnic resource centers in the Detroit area including the Wayne State University Ethnic Learning Resource Center. The Board of Education was also directed to provide in-service training for teachers to enable them to make full use of available resources and to make Multi-Ethnic Studies an integral part of the total school curriculum.

The court further ordered that the Detroit Board of Education identify ethnic groups in the Detroit Public Schools that speak English as a second language (EASL). According to Michigan Public Law 294 of 1975, school districts where 20 or more EASL students are identified are eligible for bi-lingual education classes. [8] In addition, parents of kindergarten students coming from homes where English is not the predominant language, can request bilingual instruction. The Board of Education was also directed to provide in-service training for teachers involved in the bilingual education program in the Detroit Public Schools. [9]

[7] Bradley v Milliken, p. 135

[8] See: Michigan Compiled Laws (MCL) SS 340.360; 340.390-395

[9] To date, 73 different ethnic groups have been identified as being eligible for bilingual instruction in the Detroit Public Schools as provided for in MCL SS 340.360; 340.390-395. However, only the Chaldean and Latino communities have requested that these programs be offered to their youngsters. In the Detroit Board of Education plan for bilingual education provisions were made to accommodate these ethnic groups having requested bilingual education.

PUPIL REASSIGNMENT

The student reassignment component of the school desegregation order is probably the most widely discussed and least understood of all the components. Although it has received wide media coverage the guidelines and limitations are discussed at length here to eliminate the misunderstandings that have arisen concerning this component.

The primary goal of the student transportation component was to provide a desegregated setting with "the greatest possible degree of actual desegregation, taking into account the practicalities of the situation ...." [10] and to assure quality education for all children in the system.

To achieve this the court ordered the Detroit Board of Education to devise a desegregated plan whereby no school would have more than 70% of its student body composed of white students. To achieve this, the court instructed the Board to first rezone schools wherever possible to enable students who might be reassigned to be able to walk to their new school. Further, he directed that the Board ignore regional boundaries if this would conflict with the neighborhood to rezone schools.

In schools where black students constituted 30% to 55% of the student body, the court ordered that the Board of Education consider the school desegregated and that no child should be bused to that school for the purpose of desegregation.

When, in the judgement of the Board of Education, it was necessary to bus students to effect the court's order, the court ordered that wherever possible, the Board of Education pair a predominantly white school with a predominantly black school and make every effort to minimize the travel distance while simultaneously considering the practicalities of the situation. It was further suggested that the Board of Education arrange student reassignment such that one half of a particular class would be in its home school in any one school year. In the next school year the portion of the class that had been bused would be returned to its home school and that portion which had in the previous year attended its neighborhood school would be bused.

It was felt that this program by alternating the students to be bused from year to year would minimize and more equitably distribute any hardships and burdens that may accrue through the pupil reassignment plan. Also, they directed that no student be bused for more than five of his first eight years in school. If, in the opinion of the Board of Education, this should be necessitated, the Board was instructed to advise the court of which students were involved and the justification for additional busing. Further the court noted that the busing program was not to include kindergarten students. The Board of Education was directed to designate schools which would offer the kindergarten program and assign incoming kindergarten students to the school nearest their home.

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[10] Davis v Board of School Commissioners of Mobile County, 402 U.S. 33, 37 (1971)

As part of the student reassignment, the court ordered the redistribution of grade levels as follows: Elementary Schools (Kindergarten through grade 5), Middle Schools (grades 6 through 8), and High Schools (grades 9 through 12). Further, the court established two distinct types of Middle Schools - the Zoned Middle School and the Open Enrollment Middle School.

The Zoned Middle School should be, wherever possible, a walk-in school with as near as possible even black-white student enrollment. [11] The Open Enrollment Middle School which will offer special programs designed to attract specially talented students will have a controlled enrollment to accrue a 55% - 70% black student body. If necessary, these parameters may be exceeded but no Open Enrollment Middle School should have black students constituting less than half of the total student body.

SCHOOL-COMMUNITY RELATIONS

CITY-WIDE SCHOOL-COMMUNITY RELATIONS COUNCIL

The School-Community Relations Council is composed of twenty members. Ten (10) members are appointed by the General Superintendent of Schools (Detroit Board of Education) and ten (10) members are appointed by the U.S. District Court Monitoring Commission. The twenty member council may elect to add additional members from community oriented groups, such as New Detroit, Inc., NAACP, League of Women Voters, CPI, Chamber of Commerce, etc.

[11] The school should be considered desegregated if black enrollment constitutes 30% - 55% of the total student body.

Structurally, the council is composed of an Executive Committee and five sub-committees (i.e., public information, monitoring, local committee liaison, community liaison, and parental involvement). Sub-committees [12] the sub-committees are defined by the court and correspond closely to their title. [13] The court directed these sub-committees to convene twice a month. In addition, the full council will meet at least once a month in an open session. The Executive Committee of the council will meet monthly with the General Superintendent of Schools (Detroit Board of Education) and a representative of the Monitoring Commission.

The responsibilities of the council is to oversee the entire School-Community Relations program. It will establish and coordinate programs, resolve conflicts not resolved by local and regional committees, develop and evaluate local and regional committee programs and procedures, seek input from local committees concerning the success of desegregation and forward the information, positive and negative, to the Board of Education, Monitoring Commission, and other parties in the Detroit School Desegregation Case. In addition, the council will furnish committees, school boards, and the superintendent with recommendations to avoid duplication and improve program effectiveness and compile a report detailing efforts of local and regional committees to be submitted to the U.S.District Court Monitoring Commission.

REGIONAL SCHOOL-COMMUNITY RELATIONS COMMITTEE

The Regional-School Community Relations Committee will coordinate the efforts of local School-Community Relations Committees. Its members are selected from the local School-Community Relations Committees with the chairperson being appointed by the Region Board of Education.

"The function of the Regional Committees is to discuss problems arising on the desegregated schools, such as discipline and academic achievement, to develop programs designed to resolve those problems, and to report to the local committees on the progress achieved by other local committees in solving any of these problems." [14]

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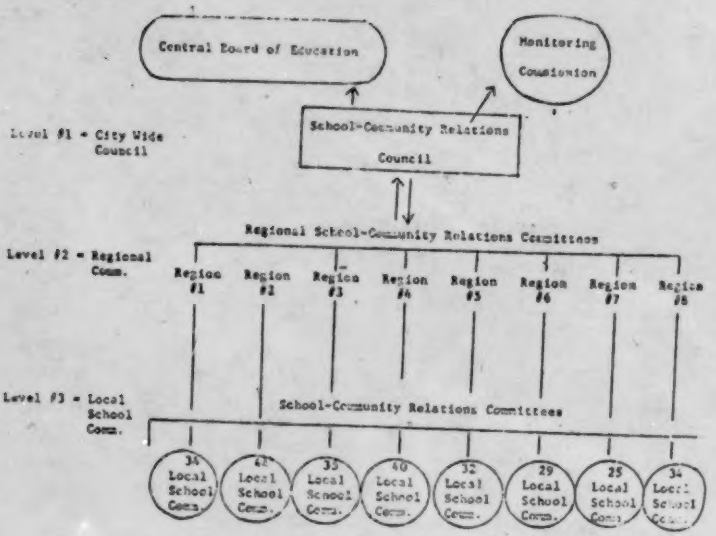
[12] Bradley v Milliken, (Memorandum, Order & Judgement - pp. 23-24)

[13] See diagram

[14] Bradley v Milliken (Memorandum, Order & Judgement dated 5/11/75, p. 22)


Central Board of Education
Monitoring Commission
Level #1 = City Wide Council
School-Community Relations Council
Regional School-Community Relations Committees
Level #2 = Regional Comm.
Region #1
Region #2
Region #3
Region #4
Region #5
Region #6
Region #7
Region #8
Level #3 = Local School Comm.
School-Community Relations Committees
34 Local School Comm.
42 Local School Comm.
35 Local School Comm.
40 Local School Comm.
32 Local School Comm.
29 Local School Comm.
25 Local School Comm.
34 Local School Comm.

SCHOOL-COMMUNITY RELATIONS COMMITTEE

The School-Community Relations Committee is the local extension of the School-Community Relations Council. "The purpose of the establishment of local committees are to strengthen communication between school personnel and parents, to encourage parental involvement in school affairs, and to increase understanding among parents from different communities." [15]

The committee is composed of 20 persons matching as closely as possible the racial proportion of the school population. Among the committee members should be representatives of the student body, school staff and outside community persons. Students and school personnel should constitute no more than one-half of the committee members. The remaining ten (10) members should be representative of the school community at large and not be involved in the day to day activities in the school. At least two of the community representatives must have no affiliation with other school-community groups (e.g., P.T.A., P.T.O., Community Council, etc.). In schools where pupil reassignment necessitates the busing in of students from outside the normal school area, two committee members must be parents of students being bused into the school. The committee will elect its own chairperson.

[15] Bradley v Milliken (Memorandum, Order & Judgement dated 5/11/76, p. 21)

Exhibit 2

FACT SHEET

EMERGENCY SCHOOL AID ACT (ESAA)

BASIC PROPOSAL

July 27, 1976

PURPOSE : The Division of Equal Educational Opportunity of the U.S. Office of Education makes grants to local education agencies under the provisions of this legislation to:

(1) meet the special needs incident to the elimination of minority group segregation and discrimination among students and faculty in elementary and secondary schools; and

(2) to aid school children in overcoming the educational disadvantages of minority group isolation.

TARGET : All 67 middle schools in the Detroit Public School System will participate in the ESAA Basic Grant activities.

ACTIVITIES : The Basic Grant application addresses itself to the need for an increase in Reading Achievement Skills of middle school students.

Two activities have been planned for this component: Individualization and Parent Training

Individualization:

All Middle School personnel will learn methods for individualizing their instructional practices utilizing diagnostic/prescriptive tests, additional systems which represent different levels of reading difficulty, and classroom management techniques.

Teachers will implement systems which will allow students to work toward common objectives while using a variety of materials and management strategies (e.g., an eighth grade class might have texts at the third, fifth, and eighth grade reading levels.)

Parent teams consisting of Home Curriculum Specialists (Teachers) and Home Curriculum Aides (Paraprofessionals) will be trained in methods of helping parents to establish a home learning center, understand the goals and practices of the middle schools and methods for helping their children improve their reading achievement.

The parent teams will work with parents at home, schools, churches, and other community meeting sites. They will design a community communication network for reaching the largest possible number of parents.

DURATION OF FUNDS : The funds to be expended during the period from July 1, 1976 to June 30, 1977.

REGIONAL AND LOCAL PARTICIPATION : Each region will select a liaison person who will meet regularly with program staff. A communication system will be established which will allow the regions and local schools to be fully informed in the progress of the program and will also allow the regions and schools to participate fully in the programs and in the development of modifications which will be necessary in order to provide better services through this grant.

FUNDING LEVEL : $2,392,642

EMERGENCY SCHOOL AID ACT (ESAA)

PILOT PROPOSAL

FUNDING SOURCE:	Emergency School Assistance Act P.L. 94-94, (ESAA)
FUNDING LEVEL:	$904,312.00
FUNDING DURATION:	July 1, 1976 through June 30, 1977
TARGET POPULATION:	Twenty-Two High Schools

PURPOSE: The Division of Equal Education Opportunity of the U.S. Office of Education makes grants to local education agencies available in order to develop new and innovative approaches for the solution of problems related to the special needs of minority group segregation and discrimination among students and faculty in elementary and secondary schools as well as problems incident to the overcoming of the disadvantages of minority group isolation.

ACTIVITIES: The ESAA Pilot Program will develop and implement a new curriculum for grades nine through twelve designed to teach Practical Life Skills. These skills include the reading, listening, speaking, mathematics, problem solving, and writing skills needed to function in the areas of occupational knowledge, consumer economics, health, community resources, and government and law.

An infusion Process will be used to implement this curriculum. An infusion Process means that there will not be a separate Practical Life Skills course offered as a part of the senior high school curriculum but rather that each teacher will assume responsibilities for teaching some portion of the skills. Each teacher will replace and/or modify several of her instructional units so that she will still be teaching her same content area but she will also be teaching several of the Practical Life Skills -- that is, those skills which are related to her content area. The teaching of the Practical Life Skills will be "infused" into the regular senior high school curriculum.

FACT SHEET

PROJECT TITLE: ESAA Special Projects

FUNDING SOURCE: Emergency school Aid Act, P.L. 92-318, as amended, Title VII

FUNDING AMOUNT: $4,092,196.00

FUNDING PERIOD: October 1, 1976 through June 30, 1977

PURPOSES: to meet needs arising from the implementation of a desegregation plan. The project will respond to four needs as defined by the four components described.

1. Crisis Prevention/Intervention (all schools): to bring about change through intensive training in elements of the educational climate such as human behavior, human value, programmatic issues, and organizational structure which currently may be the catalytic agents to conflict in the schools, to constructively change the conditions over which the school has some control and create an improved learning atmosphere. (sub amount $1,457,630)

2. Reading/Practical Life Skills (elementary schools): introduction and infusion of practical life skills into the curriculum using diagnostic-prescriptive-individualization methods with an emphasis on these skills in the instructional reading prog
(sub amount $1,710,796)

3. Mathematics Achievement (Middle schools): improve the level of mathematics achievement by increasing the utilization of individualized mathematics instruction and by the use of highly motivational strategies in which the students apply the skills in a competitive situation.
(sub amount $474,264)

10/26/76

4. Guidance and Counseling (middle schools) to provide increased guidance and counseling services to middle school students through the establishment of guidance centers and guidance teams in each school. (sub amount $449,506).

PROGRAM DEVELOPMENT
10-8-76

Exhibit 3

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

[illegible]
SEP 29 1976
GENERAL
SUPERINTENDENT

SEP 27 1976

Dr. Arthur Jefferson
Detroit Public Schools
5057 Woodward
Detroit, Michigan 48202

Dear Dr. Jefferson:

This is in response to a telegram of September 8 from Mr. Herschel Fort of your staff to Mrs. Dorothea Perkins of this office, concerning your school district's pending application for a Special Project grant under the Emergency School Aid Act (ESAA). Mr. Fort asks why your district may not use ESAA Special Project funds to serve students not attending schools affected by the district's desegregation plan. He points out that the notice of closing date for Special Project applications (41 Federal Register 19747, May 13, 1976) stated that the award of grants would be governed by regulations which permit funds to be used for any activity authorized by the statute. While this is the case the use of funds to meet other than desegregation-related needs would not be permissible, for the reasons set out below.

The funds available to support your district's application were not part of the regular fiscal year 1976 appropriation for ESAA, but were appropriated by the Second Supplemental Appropriations Act, 1976 (P.L. 94-303, enacted June 1, 1976). This Act provides that funds may be used only "to assist school districts which have adopted desegregation plans described in Section 706(a)(1)(A) and (B) of the [ESAA]." As you know, your district meets this requirement.

However, the legislative history of P.L. 94-303 clearly indicates that the Congress intended funds appropriated by that Act to be used only to meet needs arising from the implementation of a desegregation plan. Thus, the Senate Committee on Appropriations, in reporting on the bill later enacted as P.L. 94-303, stated:

> The Emergency School Aid Act authorizes funds to assist school districts implementing court-ordered or voluntary desegregation plans . . . .
>
> A number of school districts are in the process of meeting massive court-ordered desegration [sic] plans. These districts, as a result, are experiencing severe financial hardships. The Committee is deeply concerned that these financial strains will diminish educational services to all children. The Committee, therefore, recommends that the funds in the bill be targeted on areas (such as Boston, Louisville, and Detroit) which encounter special problems. . . . Funds contained in the bill would be made available at the Assistant Secretary's discretion (as authorized by section 708(a) of the basic law), for meeting special and emergency problems encountered by school districts) . . . . (emphasis added)

S. Rept. No. 94-804, p. 74.

On the Senate floor, Senator Jackson expressed his support for the supplemental ESAA appropriation as follows:

> Mr. President, on February 25, 1976, the Labor-HEW Subcommittee of the Senate Appropriations Committee held hearings on a proposal made by myself and Senator Kennedy to increase Federal assistance for school districts undergoing desegregation. Our proposal, to be specific, was that $50 million be added to the discretionary fund established by the Emergency School Aid Act to provide Federal help to those school districts whose desegregation expenses are putting a real strain on the school budget . . . .
>
> [T]his appropriation is urgently needed. Throughout America, there are school districts, many under court order, which are making a real effort to establish a desegregated school system. They deserve our help, lest the added expenses of desegregation drive the schools into near bankruptcy and result in a drop in educational standards . . . .(emphasis added)

122 Cong. Rec. S6955-56 (daily ed., May 11, 1976).

Senator Magnuson, in the same discussion on the floor, stated:

> . . . [T]he information provided to the subcommittee by HEW indicated that 16 school districts are potentially in need of additional funds for this fiscal year as a result of coming under court order for a new or additional phases of desegregation . . . . (emphasis added)

122 Cong. Rec. S6956 (daily ed. May 11, 1976).

Later on the House floor, Mr. Flood discussed the bill, as revised by the conference committee, as follows:

> . . . The conference agreed on $30 million in the conference, to carry out section 708(a) of the Emergency School Aid Act. This section of the Act authorizes the Assistant Secretary of HEW to assist the school districts who have these very special emergency problems resulting from the court ordered desegregation plans . . . . (emphasis added)

122 Cong. Rec. H4515 (daily ed. May 18, 1976)

In the light of the foregoing, we are not at liberty to permit funds appropriated by P.L. 94-303, which was enacted after the May 13 publication of the invitation for Special Project applications, to be used for other than desegregation-related needs, since such use would be counter to the expressed legislative intent of the appropriation. We believe that we are under a duty to observe this legislative history in the use of the appropriation, irrespective of whether failure to observe that history would result in legal sanction. Further, we believe that the use of the supplementary appropriation to meet needs arising from the implementation of desegregation plans will "make substantial progress toward achieving the purposes of [ESAA]," as provided in section 708(a)(2) of the ESAA (20 U.S.C. 1607(a)(2)) and in the regulations pertaining to Special Project assistance, at 45 CFR 185.94(a)(1).

Therefore, we find that your district's Special Project grant cannot be used to meet needs unrelated to the implementation of its plan. We trust that such needs are being addressed with ESAA Pilot Project funds provided to the district during this year's regular funding cycle, as well as funds stemming from other Federal, State and local sources.

As we have indicated, we are anxious to negotiate a Special Projects grant to your district that comports with the use of P.L. 94-303 funds intended by the Congress.

Sincerely,

Herman [illegible] Goldberg
Associate Commissioner
Equal Educational Opportunity
Programs

HEW has advised the Committee that approximately $55,000,000, presently available for use during the transition period is in excess. The Committee concurs with House bill language to authorize the use of these funds for hold-harmless payments. This, together with the $11 million already appropriated and the $40,000,000 recommended in the bill, should be sufficient to meet hold-harmless requirements.

EMERGENCY SCHOOL AID

1976 presently available	$241,700,000
Transition period	225,000
Proposed supplemental	
Transition period	
House allowance	
Transition period	3,000,000
Committee recommendation	30,000,000
Transition period	3,000,000

The Committee recommends $30,000,000 for Emergency school aid activities. The amount contained in the bill is in addition to the $241,700,000 presently available for these activities.

The Emergency School Aid Act authorizes funds to assist school districts implementing court-ordered or voluntary desegregation plans. A major portion of the funds appropriated are distributed to the States on the basis of a formula; the remainder is distributed at the discretion of the Assistant Secretary of Education to support special projects.

A number of school districts are in the process of meeting massive court-ordered desegration plans. These districts, as a result, are experiencing especially severe financial hardships. The Committee is deeply concerned that these financial strains will diminish educational services to all children. The Committee, therefore, recommends that the funds in the bill be targeted on areas (such as Boston, Louisville, and Detroit) which encounter special problems. This approach is similar to one proposed in the President's budget for fiscal year 1977; however, the Committee believes the current situation warrants action immediately. Funds contained in this bill would be made available at the Assistant Secretary's discretion (as authorized by section 708(a) of the basic law), for meeting special and emergency problems encountered by school districts). Since there are no firm estimates of actual need, the Committee has included bill language under which any unused funds would be apportioned to all States on the basis of the formula in law (section 703). The Committee directs the Department to carefully monitor the expenditure of these funds to insure their use only for educational purposes.

The Committee is interested in the continuation of projects designed to aid in the reduction, elimination or prevention of minority group isolation. Of particular interest are so-called interdistrict transfer projects through which students from isolated inner city schools may be sent to schools in outlying areas. It is hoped that the exposure to other groups and to an improved educational environment will broaden the minority student's outlook and understanding and lead to improvement in learning skills. The Committee believes such projects, while limited in number and voluntary in nature, serve a useful purpose in demonstrating one approach to dealing with minority group isolation.

The Committee also is concerned about the present difficulty of funding interdistrict pupil transfer projects only through basic grants (Section 706 of the Emergency School Assistance Act) where competition for limited resources is intense. Since these projects also qualify for Section 708 discretionary fund assistance in the same Act, the Committee directs that to the extent possible, this discretionary fund assistance also be made available for interdistrict pupil transfer projects in addition to assisting districts with emergency desegregation needs.

The Committee concurs with the House in providing $3,000,000 for the transition period to support a limited number of special projects. Normally, these projects are funded in the latter part of the fiscal year. The Secretary has indicated that a number of pending court cases will be decided over the next several months, and it is expected that the affected school districts will be seeking immediate assistance to respond quickly to court orders. The Committee has included funds for special projects designed to meet this need.

EDUCATION FOR THE HANDICAPPED

1976 presently available	$236,375,000
Transition period	10,300,000
Proposed supplemental	
Transition period	
House allowance	90,000,000
Transition period	
Committee recommendation	90,000,000
Transition period	

The Committee concurs with the House allowance of $90,000,000 for grants to States for the education of handicapped children. These funds are in addition to the $110,000,000 presently available for grants authorized by part B of the Education for the Handicapped Act.

The amount recommended would provide services to approximately 732,000 children during school year 1976–77. The additional funds would support screening and diagnosis of children, as well as the provision of direct educational services.

The Education for All Handicapped Children Act (Public Law 94-142) requires that States begin now to establish plans to assure that by 1978 all handicapped children are provided a free appropriate public education. State and local education agencies must certainly bear the primary responsibility for meeting the unique needs of the handicapped. However, it is quite obvious that the financial resources available to these agencies are inadequate. The Committee believes failure to reach all of the eight million handicapped children to be a national problem and has therefore included the funds necessary to assist in remedying this problem.

HIGHER EDUCATION

1976 presently available	$2,439,200,000
Transition period	124,000,000
Proposed supplemental	400,200,000
Transition period	
House allowance	701,750,000
Transition period	1,000,000
Committee recommendation	701,750,000

where each examiner now handles 1,200 ones on the average. The optimum claim et per examiner, we are advised, is only 0 cases.

e also provide additional funds and posi- . to permit the Labor Department to rry out its increased adjudicatory responsi- ities under the Longshoremen's and Harbor orkers' Compensation Act. In addition, we ovide $426,000 and 60 positions (author- ed late in fiscal 1975) to handle increased partmental responsibilities related to trade ljustment assistance. Additional funds pro- de for continuation of migrant educational ograms and a family education and em- oyment project in Montana.

Health: In the Health field we have pro- ded the needed funds for the transition riod for Maternal and Child Health, the ational Institute of Environmental Health iences and the National Institute on Alco- l Abuse and Alcoholism.

In order to provide adequate funding for e newly established Health Systems Agen- es, the Committee recommends the trans- r of $20 million from medical facilities nstruction to planning. It is possible to this because State health plans must be rmulated and approved prior to the use the construction funds. Our action will ovide more support for HSA's in metro- litan, suburban and rural areas and thus ake it possible for the new HSA program be properly implemented.

We also recommend the transfer of $20 illion from construction to the Regional edical Programs. This money will be used continue important prevention and treat- ent programs. The $40 million for these vo programs does not add to the budget— e have just transferred appropriated funds the areas where they can be most effec- vely utilized during this fiscal year.

The bill also contains $161 million to pro- de funds for recently authorized drug abuse mmunity project grants and contracts and ate formula grants.

e Committee has included some $13 on for improvements to Saint Eliza- th's Hospital and Rogers Memorial Hos- tal in the District of Columbia.

We did not consider training funds for e National Institutes of Health as the dget request is the same as the continuing solution rate and the House had provided additional funds. We will carefully con- der the training requirements in conjunc- on with the regular FY 1977 budget re- st for NIH.

Our recommendation also includes in- eased support for immunization programs protect against childhood diseases and for d-based paint poisoning control.

Education: In education our Committee commends $7.6 million to assist the States developing and coordinating bilingual ucation programs, $5.3 million to help ates assume a greater responsibility for orts to improve reading achievement, and million for an interesting program— lled "Reading Is Fundamental"—for pur- sing and distributing books to children.

The Committee also has provided the funding for a program to help States plans for equalizing expenditures We have provided $10 million in funding the "hold harmless" pro- the new Impact Aid program. Since in the law will result in cut- impact aid payments to school dis- the funding of the "hold harmless" should help to minimize the effect changes.

Of particular importance, our Committee recommends an additional $50 million for Emergency School Aid program which communities deal with problems in- to school desegregation. Our Commit- is making these funds available now of the number of communities that or may soon have to move, to comply with court orders to desegregate their schools. We have made the funds available for HEW's discretionary use so the Department will have maximum flexibility to use the money where it is urgently needed. The language of our bill also provides that if the full $50 million is not needed, the remaining amount is to be redistributed to local educational agencies under the formula in the ESA law.

We also have provided the House level of $791 million to meet rising demands on the basic educational opportunity grant program for college students. The increased demand on the program is assured by the fact that in 1976-77 it will cover students in all four college years, rather than in the first three years as is the case at present. Under the Committee's recommendation, grant awards will average $885—about the same level as in the 1975-76 school year.

The Committee has provided for continuation of the Fellowships for the Disadvantaged program which helps to increase the number of minority attorneys in this country. It is estimated that less than 1½% of all lawyers are blacks and other minorities, far below their share of the total population. The program is better known as CLEO after the group which administers it—the Council on Legal Educational Opportunity. Our $750,000 appropriation, the same as the House, will provide stipends for those already in the program and permit making funds available for a new entering class.

In another important action, the Committee added $90 million to the $110 million already available for grants to States for the Education for the Handicapped program in fiscal 1976. The additional money is provided under the new Education for All Handicapped Children Act which requires that the States move toward the goal of providing a free appropriate public education for all handicapped children. The new law imposes substantial new duties and responsibilities on the Office of Education. In recognition of this, our Committee provides sufficient funds to enable the Office of Education to hire an additional 50 persons to work in the new program.

Public assistance

In other areas, the Administration had requested $1.9 billion for additional costs of public assistance. On April 14 the Committee was advised that an additional $248 million over the initial request would be required because of increased costs of Medicaid. Since this is a noncontrollable program, with payments required by law, the Committee has made the additional funds available in Fiscal 1976 when there still is adequate budget ceiling available to handle the matter. We are concerned that if we wait until Fiscal 1977 to add the funds, it may be necessary to cut into controllable health programs in order to do it.

Aging

In the area of providing services to the aging, the Committee recommends a total of $145.1 million for Fiscal 1976, an increase of $8.8 million over the House level. The money will go for a variety of services to the elderly, for research into the problems of aging, for training people to work with the elderly—an area of serious shortage—and for special centers where the elderly can get together and be assisted with their problems. I believe that even though the Senate and the House are substantially above the request level, we can do no less for our aged citizens.

I was glad to join with Senator Eagleton in leading the effort on the Senate side in this important field.

I believe we have developed a sound and responsible bill relating to the social needs of our people. I hope the Senate will approve what we have done and that the President will sign the bill containing these items.

Mr. MANSFIELD. Mr. President, in its report on the fiscal year 1975 appropriations for the Department of Labor, the Senate Appropriations Committee instructed the Secretary to: "investigate the Mountain Plains Education and Economic Development program which serves a six State area with a view to establishing a mechanism for transitional Federal funding to replace National Institute of Education funding due to expire in fiscal year 1976 and report back to the committee with a workable plan prior to next year's hearing."

Similar language in the Department of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriations Bill for fiscal year 1976 directed the Secretaries of Commerce and Health, Education, and Welfare to advise the committee of a workable plan for the continuing operation of the Mountain Plains program.

Mr. President, the three departments, and particularly the Department of Labor, have been consistently negative with regard to the continuation of the Mountain Plains program. Correspondence to Chairman Magnuson from all three departments has demonstrated a clear lack of understanding of the intent of Congress concerning this project. It is clear that all three departments, and particularly the Labor Department, have presented an obstructionist attitude toward the Senate Appropriations Committee and bipartisan conferees.

The Mountain Plains program has proven its effectiveness and deserves continued congressional support. Mountain Plains' placement and employment rate of graduating students, improved work attitudes, better interpersonal relationships and family functioning, and growth in income from employment are well documented and a matter of record. Various research studies, including cost-benefit analyses, demonstrate that the Mountain Plains program is an outstanding project.

Congress has invested 5 years and $20 million in developing a program to solve some of the major social problems of our time, and that investment can be demonstrated to be a profitable one both in terms of human values and economic return.

H.R. 13172, Second Supplemental Appropriations Bill for 1976, provides $5 million for the Mountain Plains Family Education and Employment program to insure continued Federal assistance for the operational phase of this program. I am very thankful and appreciative for the Appropriations Committee's continued interest, particularly Senators Magnuson and Brooke and the members of their subcommittee for their support for the Mountain Plains program, and their concern for the disadvantaged Americans of the Upper Great Plains area.

Mr. JACKSON. Mr. President, on February 25, 1976, the Labor-HEW Subcommittee of the Senate Appropriations Committee held hearings on a proposal made by myself and Senator Kennedy to increase Federal assistance for school districts undergoing desegregation. Our proposal, to be specific, was that $50 million be added to the discretionary fund established by the Emergency School Aid Act to provide Federal help to those school districts whose desegregation expenses are putting a real strain on the school budget.

Quick action was required, and Chairman MAGNUSON acted quickly. He chaired the February 25 hearing, at which Senator KENNEDY and I testified, as did Mayor White of Boston and other officials from Boston, Louisville, and Cleveland. Senator MAGNUSON and Senator BROOKE, who is the ranking minority member on the Labor-HEW Subcommittee, supported my proposal, and it has been adopted by the committee.

I wish to thank Chairman MAGNUSON for his speedy action, and to reiterate that this appropriation is urgently needed. Throughout America, there are school districts, many under court order, which are making a real effort to establish a desegregated school system. They deserve our help, lest the added expenses of desegregation drive the schools into near bankruptcy and result in a drop in educational standards. I am proud of my part in advancing this proposal for increased Federal assistance, and I believe these funds will be an important contribution to achieving quality integrated education in America.

Mr EAGLETON. Mr. President, I would like to take a moment to ask my colleague from Washington (Mr. MAGNUSON) about the Senate amendment relating to emergency school aid.

The committee has recommended an additional $50 million for this fiscal year to be targeted on areas which encounter special problems. The committee report makes specific reference to three cities, Boston, Louisville, and Detroit, as examples of those facing special problems. I would like to make clear that the mention of these cities as examples is not meant to convey any intent on the part of the committee that they are the only localities facing special problems and thus eligible for assistance out of the $50 million contained in this bill.

Mr MAGNUSON. That is correct. The committee recommends that the funds in the bill be targeted on areas such as Boston, Louisville, and Detroit and other school districts receiving and implementing court orders that exhibit need for special assistance. In fact, the information provided to the subcommittee by HEW indicated that 16 school districts are potentially in need of additional funds for this fiscal year as a result of coming under court order for a new or additional phases of desegregation. It is our intent that areas such as yours, receive assistance when and if they qualify.

Mr. EAGLETON. Thank you, Mr. President. I would like to briefly describe several districts in Missouri which are now implementing desegregation plans. The city of St. Louis is under a Federal court order that requires the St. Louis public schools to implement a desegregation plan employing a variety of innovative education techniques but does not mandate massive transportation of students. Among other things, the court's decree orders the district to develop specialized schools, or magnet schools, with open enrollment practices. I believe this plan has the potential for providing many areas in the country with a model for pulling the community together so that all can work to strengthen the schools, rather than creating an atmosphere of trauma and hostility. Clearly, this school district faces special problems in its effort to develop these specialized schools with sufficiently attractive programs so that they can attract students of both races.

An area in suburban St. Louis is also under a Federal court order, one which consolidates the Kinloch School District—an all black district of about 1,000 students—and the adjoining Berkeley District with the Ferguson-Florissant School District. Under the plan ordered by the court, approximately 43 percent of the total enrollment of 22,800 students of the merged district will be bused. Implementation of the new plan will begin in September and, in so doing, the new district faces many problems. It has demonstrated a compelling need for ESAA assistance to cope with them.

I am very pleased, Mr. President, that the record is now clear that districts such as these will receive ESAA funds included in this second supplemental appropriations bill so long as they are eligible within the law.

SENATOR BEALL URGES INCREASED FUNDING FOR AGING AND EDUCATIONAL PROGRAMS

Mr. BEALL. Mr. President, I rise in support of H.R. 13172, the second supplemental appropriations bill. I congratulate the committee for their good work on this measure. I am particularly pleased with the committees action in a number of vital areas which have been of special interest to me.

First, the committee has included additional funding for the 1974 national reading improvement program to allow support for State right-to-read efforts which preceded the enactment of the 1974 program; $5.3 million is provided for this purpose. The national reading improvement program combined two reading bills, one authored by Senator EAGLETON and the second by me. It was not our intent to detract from the then ongoing effort by the States, but to launch a major new national program to combat reading deficiencies. Last year, at our urging, the Senate Appropriations Committee provided $22 million and we retained $17 million in the House-passed conference report for this program. Thus, $17 million is currently available for the program and the $5.3 million would be additional funding for the State efforts, including the efforts of Maryland.

Also, I am pleased that the committee has funded the new reading motivational program, coauthored by Senator EAGLETON and me as part of the Reading Improvement Program Amendments of 1975 (Public Law 94-194). This program authorizes funds for reading motivational programs under which local community agencies will distribute inexpensive books to schoolchildren. Federal matching assistance of 50 percent—in some hardship cases, 80 percent—of the cost of conducting reading motivational programs by local sponsors is provided.

Mr. President, last year I had the pleasure of witnessing the distribution of books in a reading-is-fundamental—RIF—project in Baltimore City at the Barclay Elementary School. I only wish my colleagues could have seen the eagerness, excitement and enthusiasm of the children as they selected their own book from a wide variety of attractive and appealing paperbacks. One's impression, based on observing these students, that this program would encourage and stimulate reading was confirmed by my discussions with the school's principal teachers and parents. This program will be a great stimulus to the creation of more reading motivational programs not only in Maryland, but throughout this entire Nation.

Second, the committee included an additional $90 million, as I strongly urged in a letter to the committee, for the funding of grants to States for the education of the handicapped autho ized by part B of the Education for the Handicapped Act, the Mathias-Beall formula which broke the impasse on educational funding in 1974. This $90 million is in addition to the $110 million already appropriated under part B.

Many States, including Maryland, face court orders requiring additional efforts for the education of the handicapped. In addition, Public Law 94-142 mandates that the States by 1978 provide all handicapped children with an appropriate free education. While there is no question that society until recently has neglected the education of the handicapped, meeting the requirements of Public Law 94-142 and court orders will necessitate additional resources. It is estimated that there are 8 million handicapped children, and I believe it is appropriate that the Federal Government assist the States in addressing this problem.

It is estimated that this amount will provide services to approximately 725,000 children during school year 1976-77. The importance of this assistance can be illustrated by my State. The additional $90 million in the committee bill, which will bring the total funding to $200 million, will mean an additional $1.8 million for the State of Maryland. My State has made significant strides in recent years in meeting its obligations to handicapped children. For example, between 1970 and 1975, State aid for the handicapped more than doubled and the number of children served increased by more than 50 percent. Without the additional assistance, however, it would be very difficult for Maryland to meet the requirements under both Federal and State law.

Third, the committee includes an additional appropriation of $40 million for the funding of the so-called hold harmless provisions of the impacted aid program. In 1974, when the Congress made various changes in the impacted aid program, which I opposed, the committee adopted an amendment offered by me to ease the impact of these changes. Because of the impact on school districts without funding of the Beall hold harmless provisions, it is imperative that the Congress fully fund them.

Fourth, I am pleased that the committee has included funds to permit the full funding of the basic opportunity grant program for the academic year 1976-77.

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. MAHON. I yield to the gentleman.

Mr. MOAKLEY. Mr. Speaker, I would like to inquire of the distinguished chairman of the Subcommittee on Labor-HEW, about this. Amendment No. 85 provides $30 million to carry out the provisions of section 708(a) of the Emergency School Aid Act.

The conferees indicate they expect the full $30 million to be distributed to the emergency impact areas. I just want to be sure that it is a clear understanding that by "emergency impact areas" the reference is to major metropolitan areas such as Boston and Louisville, that are now under court ordered busing programs.

Mr. FLOOD. Mr. Speaker, if the gentleman will yield further, I can say this to the gentleman, the answer is "Yes." The conferees agreed on $30 million in the conference, to carry out section 708(a) of the Emergency School Aid Act. This section of the act authorizes the Assistant Secretary of HEW to assist the school districts who have these very special emergency problems resulting from the court ordered desegregation plans. The best examples are in Boston and Louisville and Detroit.

The conference report, by the way, makes it very clear that this $30 million is only for such emergency impact areas, which are implementing court-ordered desegregation plans.

(Mr. MOAKLEY asked and was given permission to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, will the gentleman from Texas yield for a question?

Mr. MAHON. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I have one question relating to amendment No. 205, in which the House receded and agreed to the language of the other body. It deals with funds for the International Women's Year Commission. The House originally adopted language offered by the gentleman from Ohio (Mr. MILLER), which read as follows:

> That none of the funds appropriated under this paragraph shall be used for the purpose of directly or indirectly influencing the passage or defeat of any piece of legislation before any legislative body including the ratification of any constitutional amendment.

I am sure that the gentleman from Texas will recall this prohibition arises out of a controversy about this particular Government agency's support for the equal rights amendment and for other legislation of this nature.

I am disturbed that the conferees changed that in the conference report to nothing more than a prohibition against lobbying activities.

Can the gentleman assure me and the other Members of the House that this phrase contained in lobbying activities forbids the use of any funds here for any sort of lobbying activities, whether before Federal or State bodies or any other body and specifically forbids lobbying for the equal rights amendment?

Mr. MAHON. Mr. Speaker, I would say it should limit such lobbying. I had supported the language in the House version which affected this matter. The chairman of the subcommittee who conducted the hearings and the markup of this item is the gentleman from Oklahoma (Mr. STEED). I would yield to the gentleman from Oklahoma for a response on the conference action.

Mr. STEED. Mr. Speaker, I say to the gentleman that in the terms of the act itself and in the amendment still in the House version, it is my opinion that it does prohibit any use of this money for lobbying. That does not mean there may not be a difference of opinion between the gentleman and myself and others as to what constitutes lobbying. So I do not know whether we can put language in the bill any stronger than it already is in terms of saying that the money is to be spent in the way the act provides.

We have been assured by the chairman and others that are involved in the work of this Commission that there will be no abuses of the use of this money in the lobbying field. Outside of having their assurance and their word for it, I do not know of anything else at this stage that we can depend on, other than the language of the bill, and that is the way they interpret it.

Mr. BAUMAN. Mr. Speaker, if the gentleman from Texas will yield further, I would point out to the gentleman from Oklahoma that this is the same Commission that endorsed the equal rights amendment and said they intended to work for its passage all over the United States. I do not think their word is worth a tinker's damn as far as their past performance. That is why we need a strong prohibition.

I am asking about forbidding the use of these funds for lobbying for this or any other legislation.

Mr. STEED. Mr. Speaker, if the gentleman from Texas will yield further, I think we have to remember that we are talking about two different things. The other action the gentleman referred to was a matter of the authority which expired. We are talking about a new act setting up a commission. It grew out of this other Commission, but this new Commission operates under the act. It creates it, but does say it will not be used for lobbying. The new activities will be mostly done at the State level and inside the United States. The other was an international activity that took place outside the United States; so I think we have two different types of activities here. There is no reason that I see why the new work would not be in conformance with the law and what the leaders of this Commission have told us that they would do and what they interpret the law to mean.

Mr. BAUMAN. I thank the gentleman for yielding. I am not persuaded that the language, however, reaches the intent of the House when the bill first passed, and it should not have been weakened in conference.

Mr. MAHON. I would say to the gentleman from Maryland that I think the House language was more definitive than the language agreed to in conference, but it was necessary to reach an agreement, and this is the agreement that was reached.

Mr. Speaker, I have no further requests for time.

Mr. MICHEL. Mr. Speaker, I yield myself 10 minutes.

(Mr. MICHEL asked and given permission to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, I would really like to support the conference report, because the bill contains a number of worthy programs. However, the overall bill is substantially above the budget, and thus I cannot in good conscience do so if my commitment to spending restraint is to have any meaning.

On the surface, the bill appears to be under the budget estimates. We see an amount in the bill of $12,040,849,150 for both fiscal year 1976 and the transition quarter, compared with budget estimates of $12,313,120,075. That is a very misleading comparison, though, because when you eliminate budget requests that were not considered because of a lack of authorizing legislation later estimates, or a desire to consider the items as part of the fiscal year 1977 appropriations, you find that the bill is actually some $900 million above the budget. And this does not even include the $248 million for public assistance, for which there was no request. Nor does it include $200 million in loan limitation authority added to the budget request for housing for the elderly or handicapped.

The Labor-HEW chapter alone, minus the public assistance add-on, is some $670 million over the budget, a 20-percent increase.

Touching on the pluses of the bill first, we have in here $200 million for the U.S. contribution to initiate the International Fund for Agriculture Development. This is designed as a billion-dollar fund to assist the less developed countries to increase their food production and improve the nutritional level of their population. The oil producing countries are expected to contribute half the funds, or $500 million. This is the first time they will have provided moneys to an international fund, and our contribution is necessary to insure that such a contribution does in fact take place. Whatever the final total, however, we cannot provide more than 20 percent. So if less than a billion is ultimately contributed, our share will be reduced proportionately. A pledging session will take place in June, which is why the funds need to be included in this supplemental.

The sum of $25 million is included in the bill for disaster relief for Italy, to assist the victims of the recent earthquakes. We also consider providing $20 million in relief and rehabilitation funds for Lebanon, but decided against doing so at this time because of the unstable conditions in that country. There is uncertainty as to the durability of the government, and the war is still ongoing, which would make any rehabilitation futile at this time. If conditions stabilize, I think there is considerable disposition to provide construction assistance to that country.

In the Labor-HEW section, we have provided funds to fund the drug abuse community programs, which were not funded previously due to a lack of authorizing legislation.

Exhibit 4

MAILGRAM SERVICE CENTER
MIDDLETOWN, VA. 22645

western union Mailgram

1-012146C160 06/09/77 TLX HEW WSH A DETA
030 WASHINGTON DC JUN 9

RECEIVED
JUN 1 0 1977
GENERAL
SUPERINTENDENT

DR ARTHUR JEFFERSON SUPT
DETROIT PUBLIC SCHOOLS CTR
5057 WOODWARD AVE
DETROIT MI 48202

THE DATA SUBMITTED TO THE WASHINGTON AND CHICAGO OFFICES WITH YOUR APPLICATION FOR EMERGENCY SCHOOL AID SPECIAL AND BASIC GRANTS FAILED TO SPECIFY ONLY THOSE SCHOOLS THAT ARE AFFECTED BY THE DESEGREGATION PLAN, SEE FEDERAL REGISTER DATED JANUARY 21, 1977.)
NO FURTHER CONSIDERATION WILL BE GIVEN TO YOUR APPLICATIONS FOR ASSISTANCE UNTIL WE HAVE RECEIVED: (1) THE ENROLLMENT DATA FOR THE PROJECT YEAR ON SCHOOLS THAT HAVE REASSIGNED STUDENTS AND/OR STAFF AS A RESULT OF IMPLEMENTING YOUR DESEGREGATION PLAN (USE THE FOLLOWING KEY TO INDICATE THE TYPE OF ASSIGNMENT FOR EACH SCHOOL LISTED: STAFF/ASTERISK/, STUDENTS/ 2 ASTERISK/, AND STAFF AND STUDENTS /3 ASTERISK)
AND (2) THE ENROLLMENT DATA FOR EACH SCHOOL (TAKEN FROM THE ABOVE) PARTICIPATING IN THE PROPOSED PROGRAMS, IN ORDER TO EXPEDITE THE PROCESSING MAY WE SUGGEST A DEADLINE OF JUNE 20 FOR SUBMITTING THE ABOVE INFORMATION, PLEASE USE THE APPROPRIATE FORMS WHEN RECORDING THE INFORMATION REQUIRED AND SEND THREE COPIES TO MS. DOROTHEA PERKINS, SPECIAL PROJECTS BRANCH, EQUAL EDUCATIONAL OPPORTUNITY PROGRAMS, ROOM 2021, U.S. OFFICE OF EDUCATION, 400 MARYLAND AVENUE, S.W. WASHINGTON, D.C. 20202 AND THREE COPIES TO MR. CORNELIOUS COLLINS, EQUAL EDUCATIONAL OPPORTUNITY PROGRAMS, ROOM 630. US. OFFICE OF EDUCATION, 300 SOUTH WACKER DRIVE, CHICAGO ILLINOIS 60606. PLEASE CONTACT MRS. PERKINS, 202/245-2465, IF ASSISTANCE IS NEEDED.

GEORGE R RHODE JR ACTING ASSOC COMMR EQUAL EDUCATIONAL OPPORTUNITY PROGRAMS US OFFICE OF EDUCATION

1344 EST

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ARTHUR JEFFERSON
GENERAL SUPERINTENDENT OF SCHOOLS
DETROIT PUBLIC SCHOOLS CENTER 5057 WOODWARD AVENUE
DETROIT, MICHIGAN 48202

June 15, 1977

Rep. Carl D. Perkins, Chairman
Committee on Education and Labor
U.S. House of Representatives
B-346C Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Perkins:

I have enclosed with this letter fifty (50) copies of prepared testimony for the hearing on the Emergency School Aid Act on Thursday, June 16th at 9:30 a.m.

In response to your request to me of June 3rd, I have addressed my remarks to the accomplishments of the ESAA program in Detroit, problems we have encountered and its administration, and recommendations for future legislation.

I appreciate the opportunity to testify before this committee and I look forward to seeing you tomorrow.

Sincerely,

Arthur Jefferson

AJ/dlm

Enclosures

Chairman **Perkins**. Thank you.

Mr. Baker, you may proceed.

STATEMENT OF LYLE A. BAKER

Mr. **Baker**. The Minneapolis Public Schools, Special School District No. 1, is grateful for this opportunity to testify before the House Subcommittee on Elementary, Secondary and Vocational Education regarding its experiences with the Emergency School Aid Act (ESAA).

The school district has had ESAA basic grants for the school years 1973-74 ($535,441), 1974-75 ($1,247,256) and 1975-76 ($441,717). Minneapolis was offered a grant of $35,305 for 1976-77, which it turned down because ESAA administration/compliance is so costly that the district would not have benefited from so small a grant. The district's application for a 1977-78 grant of $358,312 is pending; no written grant notice has been received (although there has been informal verbal word that a grant will be awarded). The district has submitted several proposals for ESAA bilingual-bicultural and special projects grants since 1973, but owing to the ESAA weighted point system, none have been funded.

There are four parts to this testimony: (1) a brief overview of Minneapolis school desegregation; (2) a report on ESAA project accomplishments; (3) some strong recommendations for changes in ESAA regulations and procedures; and (4) comments on why these changes are needed.

Minneapolis Desegregation/Integration:

The Minneapolis school district has 52,400 students; 22.8 percent are from minority ethnic groups. Since 1972, the school district has been under Federal court order to desegregate its schools to less than 35 percent (one minority) or 42 percent (two minorities) students in any one school.

The court has allowed the district to implement most of its own desegregation/integration plan. This three-stage plan provided for planning and staff training in 1972-73, most secondary school desegregation in 1973-74, and most elementary school desegregation in 1974-75. It's a plan to improve the quality of education, and to give parents and students choices of instructional style and program, while achieving racial balance. Approaches have included construction of new larger schools, paired schools, alternative schools and magnet schools. About 11,000 students are bused to school daily for desegregation. Busing is a shared arrangement, involving both majority and minority students. The school district is required to make semi-annual progress reports to the court.

Desegregation is expensive. Extraordinary costs to the Minneapolis school district for desegregation/integration during the three-year period September 1972 to August 1975 totaled $19.5 million for construction, staff development and transportation. In addition, the State paid about $1 million in transportation costs. Federal ESAA funds totaled $2.2 million; only about 10 percent of the extra costs.

The major costs of desegregation/integration in Minneapolis have been hiring extra teachers, teacher aides, and desegregation aides, providing human relations and racism training for all school employees, providing staff development training for faculties of the new alternatives schools, creating new multi-racial and multi-ethnic curriculum, providing transportation, and replacing 15 pre-1900 schools with new, larger school buildings for expanded attendance areas.

ESAA accomplishments have been many.

Did funds from the Emergency School Aid Act assist the Minneapolis school district to peacefully desegregate/integrate it's schools and improve the quality of education? The answer is yes.

To what degree? The ESAA grants have assisted in two areas: (1) They helped the district provide compensatory reading and math instruction to students in newly desegregated schools; (2) They helped the district put extra staff onto buses and into buildings where there was a potential for interracial conflict, to help the students who had moved into new school situations make good social and academic adjustments.

The reading, math, and "conflict resolution" components of the Minneapolis ESAA project all were highly successful, according to evaluation studies.

The ESAA reading component served students in eight desegregating public junior highs and five nonpublic schools for two years (1973-4, 1974-5) and intermediate grade 4-6 students in 16 desegregating public elementary schools for one year, 1974-75. The project was designed to improve reading skills among the poorest readers in junior high and intermediate grades. Project teachers and teacher aides used curriculum from the Minneapolis Basic Skill Centers Reading Program and the Dorsett Reading Program, both completely individualized programs. The project surpassed its objectives, with intermediate students gaining three months for every month in the program, and junior high students gaining 2-3 months for every month in the program.

This has been said to be one of the most successful reading programs ever sponsored by ESAA; yet funding was terminated after only two years' assistance for junior high and one year of assistance for intermediate students.

The ESAA math component served students in eight desegregating public junior highs and five nonpublic schools for two years (1973-74, 1974-75). This project was designed to improve mastery of basic math skills among lowest achieving math students in desegregating junior high schools. Funds were used to hire a part-time math teacher-coordinator and teacher aides, who used an individualized curriculum of short workbooks and tests from the Title I developed Minneapolis Math Basic Skills Development Project. The project surpassed both its objectives for mastery gains among remedial math students.

The ESAA conflict resolution component was the only component funded for three consecutive years. It served eight public junior high schools in 1973-74; 29 elementary and 11 secondary public schools in 1974-75; and 28 elementary and seven junior high public schools and two nonpublic schools in 1975-76.

Funds were used to hire and train community people as desegregation counselor aides. Aides served as liaisons between the school and neighborhoods from which students were bused, and they were trained to reduce interracial conflicts in the schools. In each school with intermediate or junior high students, the aides helped students organize an ESAA Student Committee. Although evaluators reported that this component made an important contribution toward resolving and preventing conflict in desegregating schools and that it had the overwhelming support of building principals, ESAA funds were discontinued fter 1975-76.

We do have some recommended changes:

The Minneapolis school district strongly recommends that the U.S. Congress and the U.S. Department of Health, Education and Welfare make the following changes in Emergency School Aid Act legislation, appropriations, regulations and staff management procedures, in order to insure that the Act fully serves its intended purposes.

1. The Emergency School Aid Act should be fully funded to $1 billion for the period July 1, 1976, to September 30, 1979, as authorized by the Congress in P.L. 94-482.

2. The formula for apportioning funds among the States should be revised, and the funds apportioned to any State should not be less than $1 million a year.

3. Fund three-year projects.

4. Notification of an ESAA grant award should be sent to a school district no later than May of the school year preceding the project year; i.e., May 1977 for 1977-78 project funding.

5. A formal process should be established for notifying school districts if their ESAA applications are placed in technical or legal hold, and technical assistance should be provided to help the districts release their applications from the hold category, before they lose chances of funding by default.

6. Require the Office for Civil Rights to notify school districts by September of all data which will be required by OCR for ESAA proposals for the following year; i.e., September 1977 for proposals for 1978-79 school year funding.

7. Allow indirect costs.

8. Give added encouragement and technical assistance for ESAA programs other than compensatory models.

Comments on recommendations:

Full funding. The Federal Government has played a major role in mandating desegregation of the nation's public schools through legislation passed by the Congress and through orders of the Federal courts. The Federal Government should play an equally major role in helping school districts pay the excess costs of school desegregation. It has not done this. Federal ESAA funds paid only 10 percent of the excess costs of Minneapolis school desegregation/integration during the first three years of the effort; no Federal support was received during the fourth year.

We are dedicated to desegregate to the point the schools were actually open. These schools were in some cases not racially balanced because of the practices of HUD and HEW in the school year.

State apportionment formula/allocation. The existing formula apportions funds to states based on the number of minority group children in a state ages 5-17. This does not take into account the fact that in some states most of those children may be concentrated in two school districts, as is the case in Minnesota. The result for Minnesota is that Minneapolis and St. Paul must compete for the $400,000 apportioned to this State. The sum of $400,000 is not sufficient to assist two large city school districts with the extra costs of desegregation.

The Minneapolis school district has been urged to apply for funds available under the bilingual-bicultural and special projects sections of the Act to supplement State-apportioned funds. Our applications have been unsuccessful. Although they have received close to the maximum "quality project points," the current weighted point system based on numbers of students has made it impossible for Minneapolis to compete with larger school districts for these funds.

We also would join with Detroit in asking for three years funding of projects. The ESAA practice of awarding one-year grants places undue and unnecessary hardships on desegregating school districts. Creating a project which will be effective with students, but which can self-destruct in less than 12 months, is extremely difficult. Desegregation takes time; time to involve the community in planning, time to retrain teachers, time to help students overcome effect of racial isolation, time to begin changing behaviors and attitudes which dehumanize students. The Federal court recognized the need for time when it allowed Minneapolis to desegregate its schools over a period of years. The Congress should do likewise.

Specific problems with one-year funding in Minneapolis have included the following:

(1) Less ambitious goals and objectives can be set for the project than if there were an assurance of longer term funding.

(2) Staff members are reluctant to leave their present positions (and building seniority rights) for a one-year project.

(3) ESAA's intermittent funding creates an additional burden on the local budget. Let me explain. Year 1: Personnel are employed for an ESAA program. Year 2: ESAA funding is terminated. However, the program has proved so valuable to students that the school district scrapes up local funds to hire the ESAA personnel and risks coming up with inadequate resources and disappointing results. Year 3: ESAA funds are obtained to reinstate the Year 1 ESAA project. However, the regulations say it's supplanting to rehire for the ESAA project the staff who were funded in Year 2 from the local budget.

Our next recommendation is in agreement with that made by the Superintendent from Detroit:

Late funding notices (July, August, even September) compound the time problem of one-year grants. Frequently, it's October or November before new staff can be transferred or hired and trained.

Our fifth recommendation would be a technical process for handling grants including ESAA roles in this.

Application "holds" process: One reason for late notices of funding is the practice of placing an ESAA proposal in technical or legal hold. There seems to be no formal process for notifying school districts that their proposals have been placed in "hold," or for advising them on how best to have their proposals released from hold so they can be funded. The Minneapolis ESAA basic grant application for 1976-77 funds was placed in legal hold. The superintendent received a telephone call from OCR in Chicago saying the application had been placed in hold pending outcome of the appeal of a civil rights employment complaint against the school district which already had been decided by the courts in favor of the school district. This district considers the practice of placing a district's application in hold pending an appeal to be unfair. It considers notice of so serious a delay as an application's legal hold by phone call, rather than in writing, to be inappropriate.

Our sixth recommendation has to do with OCR advance notice. Our first concern with the Office of Civil Rights is, frequently a school system is treated as guilty until proven innocent. We think this is not right. We also feel OCR has been rather heavy-handed as to compliance. We applaud their efforts, but somehow we feel giving us two or three days' advance notice to have the equivalent of three-person months is unreasonable. We have also found the OCR office has frequently requested and required us to do things which we are not required by law to do or which are even considered to be inappropriate.

For example, OCR required the school district to obtain HEW 441 forms from every non-public school in Minneapolis, although it earlier had required the school district to sign an assurance and to make a written determination that based on evidence examined, it found every non-public school wishing to participate in the ESAA project to be in compliance with ESAA regulations.

With only two to three days advance notice, OCR teams have come to Minneapolis to conduct compliance reviews, and have expected the district to have ready the equivalent of a two-to-three months of person work—in addition to all documentation required by the grant application, ESAA regulations, and earlier OCR directives and demands for data.

Our seventh point would be as to allowance of indirect costs. ESAA regulations and procedures for project operations and OCR compliance result in the highest indirect administrative costs of any federally funded project in the Minneapolis school district except ESEA Title I, which does allow indirect costs. The ESAA regulations should be changed to allow school districts to claim at least their restricted HEW indirect cost rates.

Eight, authorized versus "encouraged" activities. There are 15 categories of allowable ESAA grant expenditures. Yet ESAA continues to be primarily a compensatory education program. For its applications for 1973-74 and 1974-75 funds, the Minneapolis district was told verbally that it could apply for ESAA funds for any of the then 12 allowable categories, but that if it wanted to receive ESAA funds, it should design a project for 75 percent compensatory education and 25 percent counseling/conflict resolution services. Although this verbal limitation has been discontinued, this district and others have continued to write ESAA proposals for compensatory education services because of their previous successful experiences with these proposals. If ESAA is to meet the broader range of desegregation-related school needs, then the Office of Education regional office staffs will have to be instructed to encourage local school districts to write ESAA proposals for categories of service other than compensatory education. Regional offices will also have to realize that "hard" data on needs for services other than compensatory education are difficult to obtain. All needs cannot be validated by standardized test measures.

I might also add, there is another thing inherent in the judging of proposals. That relates to the judging of goals and projects. ESAA takes a look at hard behavioral objectives which is appropriate for compensatory education but not for more effective kinds of educational programs.

We think there are difficulties with using hard behavioral objectives with statistical data to justify a program. We may have to take a closer look at the kinds of programs funded because of objectives.

We have also found that we feel as each layer of administration is added in any program, each layer becomes more restrictive as to how it handles funds and programs.

We have felt at times we were being held to a much stricter adherence to the rules and regulations of the regional office than was originally intended.

That basically concludes my testimony.

Again, I thank the committee for allowing me to present my remarks; and I welcome any questions.

[The prepared statement of Mr. Baker follows:]

Minneapolis Public Schools Testimony
at hearing on the Emergency School Aid Act
Thursday, June 16, 1977 - 9:30 a.m.
Rayburn House Office Building, Rm. 2175
before the Subcommittee on Elementary, Secondary
and Vocational Education
Committee on Education and Labor
House of Representatives
Congress of the United States

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The school district has had ESAA basic grants for the school years 1973-74 ($535,441), 1974-75 ($1,247,256) and 1975-76 ($441,717). Minneapolis was offered a grant of $35,305 for 1976-77, which it turned down because ESAA administration / compliance is so costly that the district would not have benefited from so small a grant. The district's application for a 1977-78 grant of $358,312 is pending; no written grant notice has been received (although there has been informal verbal word that a grant will be awarded). The district has submitted several proposals for ESAA bilingual-bicultural and special projects grants since 1973, but owing to the ESAA weighted point system, none have been funded.

There are four parts to this testimony: (1) a brief overview of Minneapolis school desegregation; (2) a report on ESAA Project accomplishments; (3) some strong recommendations for changes in ESAA regulations and procedures; and (4) comments on why these changes are needed.

(1) Minneapolis Desegregation/Integration

The Minneapolis school district has 52,400 students; 22.8 percent are from minority ethnic groups. Since 1972, the school district has been under federal court order to desegregate its schools to less than 35% (one minority) or 42% (two minorities) students in any one school.

The court has allowed the district to implement most of its own desegregation/integration plan. This three-stage plan provided for planning and staff training in 1972-73, most secondary school desegregation in 1973-74, and most elementary school desegregation in 1974-75. It's a plan to improve the quality of education,and to give parents and students choices of instructional style and program, while achieving racial balance. Approaches have included construction of new larger schools, paired schools, alternative schools and magnet schools. About 11,000 students are bused to school daily for desegregation. Busing is a shared arrangement, involving both majority and minority students. The school district is required to make semi-annual progress reports to the court.

Desegregation is expensive. Extraordinary costs to the Minneapolis school district for desegregation/integration during the three-year period September 1972 to August 1975 totaled $19.5 million for construction, staff development and transportation. In addition, the State paid about $1 million in transportation costs. Federal ESAA funds totaled $2.2 million; only about 10 percent of the extra costs.

The major costs of desegregation/integration in Minneapolis have been hiring extra teachers, teacher aides, and desegregation aides, providing human relations and racism training for all school employees, providing staff development training for faculties of the new alternatives schools, creating new multiracial and multiethnic curriculum, providing transportation, and replacing

15 pre-1900 schools with new, larger school buildings for expanded attendance areas.

(2) ESAA Accomplishments

Did funds from the Emergency School Aid Act assist the Minneapolis school district to peacefully desegregate/integrate it's schools and improve the quality of education? The answer is yes.

To what degree? The ESAA grants have assisted in two areas: (1) They helped the district provide compensatory reading and math instruction to students in newly desegregated schools; (2) They helped the district put extra staff onto buses and into buildings where there was a potential for interracial conflict, to help the students who had moved into new school situations make good social and academic adjustments.

The reading, math, and "conflict resolution" components of the Minneapolis ESAA project all were highly successful, according to evaluation studies.

The ESAA reading component served students in eight desegregating public junior highs and five nonpublic schools for two years (1973-4, 1974-5) and intermediate grade 4-6 students in 16 desegregating public elementary schools for one year - 1974-75 . The project was designed to improve reading skills among the poorest readers in junior high and intermediate grades. Project teachers and teacher aides used curriculum from the Minneapolis Basic Skill Centers Reading Program and the Dorsett Reading Program, both completely individualized programs. The project surpassed its objectives, with intermediate students gaining three months for every month in the program, and junior high students gaining 2-3 months for every month in the program.

This has been said to be one of the most successful reading programs ever sponsored by ESAA; yet funding was terminated after only two years assistance for junior high and one year of assistance for intermediate students.

The ESAA math component served students in eight desegregating public junior highs and five nonpublic schools for two years (1973-74, 1974-75). This project was designed to improve mastery of basic math skills among lowest achieving math students in desegregating junior high schools. Funds were used to hire a part-time math teacher-coordinator and teacher aides, who used an individualized curriculum of short workbooks and tests from the Title I developed Minneapolis Math Basic Skills Development Project. The project surpassed both its objectives for mastery gains among remedial math students.

The ESAA conflict resolution component was the only component funded for three consecutive years. It served eight public junior high schools in 1973-74; 29 elementary and 11 secondary public schools in 1974-75; and 28 elementary and seven junior high public schools and two nonpublic schools in 1975-76.

Funds were used to hire and train community people as desegregation counselor aides. Aides served as liaisons between the school and neighborhoods from which students were bused, and they were trained to reduce interracial conflicts in the schools. In each school with intermediate or junior high students, the aides helped students organize an ESAA Student Committee. Although evaluators reported that this compenent made an important contribution toward resolving and preventing conflict in desegregating schools and that it had the overwhelming support of building principals, ESAA funds were discontinued after 1975-76.

(3) Recommended Changes

The Minneapolis school district strongly recommends that the U.S. Congress and the U.S. Department of Health, Education and Welfare make the following changes in Emergency School Aid Act legislation, appropriations, regulations and staff management procedures, in order to insure that the Act fully serves its intended purposes.

1. The Emergency School Aid Act should be fully funded to $1 billion for the period July 1, 1976 to September 30, 1979 as authorized by the Congress in P.L. 94-482.

2. The formula for apportioning funds among the states should be revised, and the funds apportioned to any state should not be less than $1 million a year.

3. Fund three-year projects.

4. Notification of an ESAA grant award should be sent to a school district no later than May of the school year preceding the project year; i.e. May 1977 for 1977-78 project funding.

5. A formal process should be established for notifying school districts if their ESAA applications are placed in technical or legal hold, and technical assistance should be provided to help the districts release their applications from the hold category, before they lose chances of funding by default.

6. Require the Office for Civil Rights to notify school districts by September of all data which will be required by OCR for ESAA proposals for the following year; i.e. September 1977 for proposals for 1978-79 school year funding.

7. Allow indirect costs.

8. Give added encouragement and technical assistance for ESAA programs other than compensatory models.

(4) Comments on recommendations

1. Full funding. The federal government has played a major role in mandating desegregation of the nation's public schools through legislation passed by the Congress and through orders of the federal courts. The federal government should play an equally major role in helping school districts pay the excess costs of school desegregation. It has not done this. Federal ESAA funds paid only 10 percent of the excess costs of Minneapolis school desegregation/integration during the first three years of the effort; no federal support was received during the fourth year.

2. State apportionment formula/allocation. The existing formula apportions funds to states based on the number of minority group children in a state ages 5-17. This does not take into account the fact that in some states most of those children may be concentrated in two school districts, as is the case in Minnesota. The result for Minnesota is that Minneapolis and St. Paul must compete for the $400,000 apportioned to this state. The sum of $400,000 is not sufficient to assist two large city school districts with the extra costs of desegregation.

The Minneapolis school district has been urged to apply for funds available under the bilingual-bicultural and special projects sections of the act to supplement state apportioned funds. Our applications have been unsuccessful. Although they have received close to the maximum "quality project points", the current weighted point system based on numbers of students has made it impossible for Minneapolis to compete with larger school districts for these funds.

3. Three-year projects. The ESAA practice of awarding one-year grants places undue and unnecessary hardships on desegregating school districts. Creating a project which will be effective with students, but which can self-destruct in less than 12 months, is extremely difficult! Desegregation takes time; time to involve the community in planning, time to retrain teachers, time to help students overcome effects of racial isolation, time to begin changing behaviors and attitudes which dehumanize students. The federal court recognized the need for time when it allowed Minneapolis to desegregate its schools over a period of years. The Congress should do likewise.

Specific problems with one-year funding in Minneapolis have included the following:

(a) Less ambitious goals and objectives can be set for the project than if there were an assurance of longer term funding.

(b) Staff members are reluctant to leave their present positions (and building seniority rights) for a one-year project.

(c) ESAA's intermittent funding creates an additional burden on the local budget. Year 1: Personnel are employed for an ESAA program. Year 2: ESAA funding is terminated. However, the program has proved so valuable to students that the school district scrapes up local funds to hire the ESAA personnel and risks coming up with inadequate resources and disappointing results. Year 3: ESAA funds are obtained to reinstate the Year 1 ESAA project. However, the regulations say it's supplanting to re-hire for the ESAA project the staff who were funded in Year 2 from the local budget.

4. Grant notices by May. Late funding notices (July, August, even September) compound the time problem of one-year grants. Frequently, it's October or November before new staff can be transferred or hired and trained.

5. Application "holds" process. One reason for late notices of funding is the practice of placing an ESAA proposal in technical or legal hold. There seems to be no formal process for notifying school districts that their proposals have been placed in "hold," or for advising them on how best to have their proposals released from hold so they can be funded. The Minneapolis ESAA basic grant application for 1976-77 funds was placed in legal hold. The Superintendent received a telephone call from OCR in Chicago saying the application had been placed in hold pending outcome of the appeal of a civil rights employment complaint against the school district which already had been decided by the courts in favor of the school district. This district considers the practice of placing a district's application in hold pending an appeal to be unfair. It considers notice of so serious a delay as an application's legal hold by phone call, rather than in writing, to be inappropriate.

6. OCR Advance notice. The Minneapolis school district recognizes and applauds the efforts which the Office for Civil Rights has made to bring about school desegregation. However, in the Minneapolis experience with ESAA, OCR has at times been heavy-handed and unreasonably impatient in its requirements for massive, and expensive data collection which it did not warn the school district in advance would be required for compliance with ESAA regulations.

OCR required the school district to obtain HEW 441 forms from every nonpublic school in Minneapolis, although it earlier had required the school district to sign an assurance and to make a written determination that based on evidence examined, it found every nonpublic school wishing to participate in the ESAA project to be in compliance with ESAA regulations.

With only 2 to 3 days advance notice, OCR teams have come to Minneapolis to conduct compliance reviews, and have expected the district to have ready the equivalent of two-to-three months of person work -- in addition to all documentation required by the grant application, ESAA regulations, and earlier OCR directives and demands for data.

7. Allow indirect costs. ESAA regulations and procedures for project operations and OCR compliance result in the highest indirect administrative costs of any federally funded project in the Minneapolis school district except ESEA Title I, which does allow indirect costs. The ESAA regulations should be changed to allow school districts to claim at least their restricted HEW indirect cost rates.

8. Authorized vs. "encouraged" activities. There are 15 categories of allowable ESAA grant expenditures. Yet ESAA continues to be primarily a compensatory education program. For its applications for 1973-74 and 1974-75 funds, the Minneapolis district was told verbally that it could apply for ESAA funds for any of the (then) 12 allowable categories, but that if it wanted to receive ESAA funds, it should design a project for 75 percent compensatory edcuation and 25 percent counseling/conflict resolution services. Although this verbal limitation has been discontinued, this district - and others - have continued to write ESAA proposals for compensatory education services because of their previous successful experiences with these proposals. If ESAA is to meet the broader range of desegregation-related school needs, then the Office of Education regional office staffs will have to be instructed to encourage local school districts to write ESAA proposals for categories of service other than compensatory education. Regional offices will also have to realize that "hard" data on needs for services other than compensatory education are difficult to obtain. All needs cannot be validated by standardized test measures.

LAB:MH:lu
6-13-77
Federal Programs Department
Minneapolis Public Schools

Chairman **Perkins**. Is Dr. Bain here at the present time?

If not, we will hear Mr. Lucas.

Mr. **Quie**. May I ask some questions first?

Chairman **Perkins**. Certainly.

Mr. **Quie**. Judging from your comments, Mr. Baker, would you agree that ESAA ought not to be primarily a program for basic skills, but ought to be directed toward peculiar problems that come to a district because of desegregation?

Mr. **Baker**. Yes, sir.

Mr. **Quie**. Are there any schools which are Title I target schools and use ESAA funds?

Mr. **Baker**. Yes, virtually all ESAA schools are Title I schools.

Mr. **Quie**. How do you decide who gets the compensation?

Mr. **Baker**. It is an arbitrary decision as to who the students will be; who will be served by Title I funds; and who will receive funds from ESAA.

Mr. **Quie**. Does the same student get funding from both programs?

Mr. **Baker**. Yes.

Mr. **Quie**. Is it possible to blend the programs or do you have to identify the money all the way through and keep the programs separate?

Mr. **Baker**. We must keep each project as distinct as possible. It also creates a problem when you also have Indian education monies in the program. In 1973, or '75, we had five different programs trying to reach the same kids. If we would have been allowed to focus on pooling the efforts rather than running five distinct programs, we would have been more successful.

Mr. **Quie**. Can you handle more flexibility in programs if you come in and lay out a program for the Commissioner?

Mr. **Baker**. Yes.

Mr. **Quie**. You mentioned that you would like to have a million dollars set aside for each State; and also you dropped last year's program because you did not get enough money, the grant was too small. Do you think every State needs a million dollars?

Mr. **Baker**. No; but in terms of a State not needing that money, with reallocation, at least a State like Minnesota could be assured of a million dollars to meet its basic needs and a State like South Dakota, for example, that money could be allocated to other States.

Mr. **Quie**. You had $35,000 for '76-'77. Were there regulations imposed more extensive than the $35,000?

Mr. **Baker**. To be very frank, that $35,000 came three days before, about September 27. We were given three days in which to accept the money, with the statement that money expired September 30th. We received it only after congressional concern and questioning. It was salve to put on the wound and we thought it was more a slap in the face.

We did not have any program for $35,000. Our application was for a million and a half.

Mr. **Quie**. If you continue to have $400,000 for the State and both Minneapolis and St. Paul came in with a program, it seems to me, off the top of my head, it would be equitable to give each $200,000, provided you had more than three days to put it together.

If it was $400,000, wouldn't this be an equitable way to apportion it?

Maybe Minneapolis, being bigger, would get $150,000 and St. Paul the balance.

Mr. **Baker**. The figure we have come upon is one way to approach it. There are other ways money plays on the school district. Our intent is not so much the dollar amount of a million dollars to the State, but to say we have to take a different look at funding so the school districts who need it, get it. In Minnesota, we have two school districts: One is desegregating 8,000, St. Paul, 8,000. We are desegregating about 11,000.

Our public really demands if there is money there, we had better apply for all of it. Our principals say if there is $400,000, you apply for it. Therefore, you are placed in a political bind. Even though it seems reasonable to us that we work with Minneapolis and we both submit a grant for $200,000, we would come under pressure from our communities in not meeting the needs.

Mr. **Quie**. Would you prefer the State of Minnesota play the role instead of beating at the door of the Commissioner?

Mr. **Baker**. We wouldn't have any problem with that.

Mr. **Quie**. Our State Department of Education is extremely strong, judging from the cries from local schools which I receive, saying they are putting too much pressure on them to integrate. I don't think the Federal Government would have any worry in turning over to the State of Minnesota the responsibility to divide the money.

Mr. **Baker**. Our relationship with the state department has been very good and we would expect that to be the case. You might have difficulty with the money flowing from Washington to the state office to the regional office and then each one imposing its own guidelines. Then by the time it got to St. Paul, for instance, you might have a whole layer of guidelines you have to meet.

Mr. **Quie**. I would like to see the states put up their own money, too, and go the 50/50 route; you put up half the money to keep you responsible for it.

As to the three-year funding, you feel you ought to be able to get a grant for three years and then three years' assurance; and then come in annually somewhere near the third year for an additional amount of money?

Mr. **Baker**. I think for an initial grant or for some kind of grant, you need to have three years to work with it. The kind of goals and objectives you set up for a three-year grant are much different. I submit three one-year grants don't achieve the same goals and objectives you would have with one three-year grant. If there are still unmet needs in the school district at that time, I would suppose the school district might want to apply for another grant. One-year funding on a competitive basis doesn't get the full measure of effect from Federal funds; and, secondly, does not allow us to show what we can do if we had the assurance of a three-year funding period.

Mr. **Quie**. You say you would accomplish different goals. Can you place any quantitative goals as to whether you can do more than solving the problems which exist in one three-year grant rather than three one-year grants?

Mr. **Baker**. We believe so. Particularly in the area of behavior changes or value changes. In one year you can't show much change. As it is right now, the one-year funding lends itself, basically, to basic skills-type programs. Consequently, you find, in our judgment, a great deal of emphasis on basic education.

Mr. **Quie**. Thank you for your excellent testimony.

Chairman **Perkins**. All right.

Our next witness is Mr. William Lucas representing Dr. Bain.

[The prepared statement of Dr. Josie Bain follows:]

THE SUBCOMMITTEE ON ELEMENTARY, SECONDARY,
AND VOCATIONAL EDUCATION
EMERGENCY SCHOOL AID ACT

TESTIMONY: DR. JOSIE G. BAIN
THURSDAY, JUNE 16, 1977, 9:30 A.M.

Mr. Chairman and members of the Subcommittee on Elementary, Secondary, and Vocational Education:

I am Josie Bain, Associate Superintendent, Instruction of the Los Angeles Unified School District. I am honored to have received an invitation to appear before your committee to present testimony on the Emergency School Aid Act. May I give you quickly some background information on the district I represent before presenting testimony.

The Los Angeles Unified School District is the second largest district in the nation. It has a pupil population of approximately 601,000 students; covers a geographical area of approximately 710 square miles; has an ethnically diverse population of Hispanic, Black, Asian, American Indian, and white; operates a total of 667 schools of which 435 are elementary, 75 are junior high, 49 are senior high schools in addition to continuation high schools, regional occupation programs and centers, community adult schools, and schools for the handicapped. The district operates on a budget which contains a revenue limit of $1,210 per pupil and is considered an average-wealth school district in the state.

Your letter requested that my testimony "focus on the accomplishments of the ESAA program in your district, any problems you see with the program, and the need for any changes in the program."

My testimony will relate to each of the three items in the order stated in your letter.

First: The accomplishments of the ESAA program in our district, the Los Angeles Unified School District.

The California State Supreme Court has issued an order requiring the district to implement a student integration plan during the fall of the 1977-78 school year; the Office for Civil Rights has required the district to implement a program of staff balance which was begun during the 1976-77 school year. The district has aggressively addressed each area of actual and alleged discrimination by initiating programs designed to reduce or eliminate the problem. The district's budget for 1977-78 required a sizeable reduction in services in order to provide student and staff integration programs. This reduction has come at the expense of the education program for students, instructional program support positions, and salaries of staff.

Gentlemen, as ludicrous as it might seem, this school district, again, the second largest district in the nation, is receiving not one cent directly from the Emergency School Aid Act or any other federal source, to help in this endeavor.

A handful of nonpublic organizations have received small amounts of funds, never more than one million dollars, to conduct activities intended to assist the integration process in our district, but this assistance cannot begin to address the breadth of the problems. It is virtually meaningless, therefore, to focus on the accomplishments of ESAA in our district.

Second: Any problems we see with the program.

Although ESAA funds were ostensibly intended to assist school districts in their efforts to eliminate minority group segregation, as indicated in Section 702(b)(1) of the Act, the requirements for eligibility, or waiver of ineligibility, are such as to preclude financial assistance to school districts which may be making a conscientious, affirmative effort to comply and are in desperate need of that very financial assistance to achieve this compliance.

One problem that we see is the fact that the existence of racially identifiable faculties is construed as presumptive of past legally impermissible discriminatory practices. As justifiable as this automatic assumption may appear, I believe it is essential to look at the admitted previous presence of racially imbalanced faculties in our district in the proper historical context. I am constrained to note that regardless of earlier practice, which may have encompassed less justifiable bases for faculty assignment, the initial concept of Title I of the Elementary and Secondary Education Act dictated that efforts be made to establish conditions in Title I schools such that students in those schools would have role models, reflecting their own ethnicity, with whom they could identify and whose presence in their schools would constitute an affirmation of the aspirations being encouraged in such students.

Nevertheless, the racial and ethnic identifiability of the faculties of our schools made the district ineligible for ESAA funding, for which we had made application to provide the capability of desegregating the students and staffs in our schools. Under the language of ESAA, Public Law 92-318, Section 706(d)(1)(B), and the implementing regulations, 45 CFR 185.43(b)(2), eligibility for funds required an integrated staff. Waivers are permitted, but in order to secure a waiver, the discriminatory activity must already have "ceased to exist." The inherent contradiction between this situation and the intent of ESAA were acknowledged by then Secretary of Health, Education and Welfare, Caspar Weinberger, who proposed changes in the regulations to permit certain large urban districts, which were otherwise ineligible for a waiver and the consequent assistance in correcting their problems, to qualify for a waiver of ineligibility. These regulations changes were challenged, and found, in Kelsey v. Weinberger, to be inconsistent with the language of the statute.

Notwithstanding the motivation for personnel practices which had been generated in response to the perceived goals of ESEA Title I, this district embarked on a series of intensive efforts to achieve the staffing patterns which would achieve compliance with the requirements of the Office for Civil Rights and permit a waiver of ineligibility for ESAA funds. When broad-based voluntary efforts proved insufficient, the district embarked upon a two-year plan of staff integration which had received the approval of the Office for Civil Rights. In the 1976-77 school year, the district, without any financial assistance, achieved the objectives of Phase I of the staff integration program in 559 (99%) of 567 schools. District compliance with Phase I led to serious instructional problems in some mid-city schools, including large numbers of teacher transfers, transfers of key instructional personnel, dropout of some replacements, an aggravated drop in student achievement, and a high percentage of substitute teachers. Approximately 48% of the district-wide number of transfers necessary to reach faculty balance goals were required within mid-city school areas, where transfers exceeded 1,500 teachers. Phase II has an objective of no less than 20% nor more than 40% minority teaching staff, requiring an additional 890-990 teacher reassignments, many of which would be in the same schools impacted by Phase I. The Office for

Civil Rights denied a request that the Phase II requirements be modified slightly to protect such schools.

Again, may I state that on June 28, 1976, the California Supreme Court issued an order requiring the district to implement a student integration plan during the fall of the 1977-78 school year. As a result, the district has had to augment its integration budget by approximately $25 million, for a total for this purpose of $32.9 million. Until the court has approved an integration plan, it is not possible to know if this amount will be adequate. The district's total budget has already been cut by almost $18 million, and the superintendent has identified an additional $50.7 million in essential programs which are unfunded.

To assist with this fiscal crisis, the district once again applied for ESAA funds, this time submitting a 19-component proposal for approximately $24 million. And once again, the proposal was rejected under the sections of the statute and regulations which require that in order to secure a waiver, the discriminatory practice which we are attempting to correct must already have "ceased to exist." As it now stands, gentlemen, we are in the unconscionable position of having to solve the problem first; only after it is solved will we be eligible for the funds to help us solve the problem!

Third: Need for changes in the program.

In order to achieve the intent of the Emergency School Aid Act, there must be a capability to provide the assistance essential for school districts to implement the processes necessary to achieve the desired student and staff integration. The current language of ESAA specifies that an ineligible agency may apply for a waiver of ineligibility, and such application must include information "...to insure that any practice, policy, or procedure, or other activity resulting in the ineligibility has ceased to exist or occur and ... to insure that such activities do not reoccur..." If this language were changed to include the alternative that districts "be in the process of resolving the causes of ineligibility," then the door would be opened to allow our district, which is taking affirmative, demonstrable action to achieve compliance, to receive the assistance which was the intent of the legislation, and help us to go about the business of integrating our school district.

May I thank you for the opportunity of addressing some of the concerns about the ESAA program and its effect upon the Los Angeles City Unified School District.

STATEMENT OF WILLIAM L. LUCAS ON BEHALF OF DR. JOSIE BAIN

Mr. LUCAS. I am Bill Lucas, Assistant Superintendent for Los Angeles City Unified School District.

Dr. Bain has been held up across the country during her flight. It would be a pleasure to have been able to present her to the committee.

Her primary assigned duties are working with the integration plan in Los Angeles. In her testimony provided for the committee, she gave a brief description of the district which is the second largest in the nation. We have 610,000 students and the district covers 710 square miles.

In addressing matters the committee would probably have liked Dr. Bain to comment on, I would like to say, I wish we could enjoy the problems of late grants and multi-year funding. I say that because with the background of our district, we have been told we are ineligible for an ESAA grant. There are a handful of non-public agencies within the district which have received some small grants but nothing which would seem to address the magnitude of the problems we are facing.

We have been ineligible because of the faculty balance program as stipulated by OCR. This year we are in Phase II of a faculty balance program. Last year, we transferred over 1500 teachers within our district. We accomplished about 55 percent of our task. This year we are entering into Phase II and we hope to accomplish our entire task of balancing our staff. This will incur transferring of about a thousand more teachers.

As to the need for change in the program, of course, we look at the eligibility requirement. We do have a suggestion for the language. In order to achieve the intent of the Emergency School Aid Act, there must be a capability for school districts to implement the process necessary to achieve the student and staff integration.

The current language of ESAA specifies that an ineligible agency may apply for a waiver of ineligibility, and such application must include information ". . . to insure that any practice, policy, or procedure, or other activity resulting in the ineligibility has ceased to exist or occur and . . . to insure that such activities do not reoccur . . ." If this language were changed to include the alternative that districts "be in the process of resolving the causes of ineligibility," then the door would be opened to allow our district, which is taking affirmative, demonstrable action to achieve compliance, to receive the assistance which was the intent of the legislation, and help us to go about the business of integrating our school district.

We have entered into a plan financed entirely out of local funds. We are currently in the court in Los Angeles reviewing the plan which the district believes will put us in compliance with the Supreme Court order of last spring. Until the judge renders the decision we don't know what the cost of that plan will be. We have currently budgeted $32 million over the past year to integrate our students. With that background I stand ready to answer any questions you might have.

Chairman **PERKINS**. The main issue which has developed regarding this program is whether it should continue as a separate program or be blended in with other programs, particularly Title I. Can you tell us whether you are doing anything with these funds which you can't do under other programs?

Mr. **LUCAS**. Well, as I stipulated, we are not receiving ESAA funds now. But in our Title I funds we have components.

Chairman **PERKINS**. Can you use Title I funds to achieve the purposes of this particular program?

Mr. **LUCAS**. No.

Chairman **PERKINS**. I would like to hear the other gentleman comment as to whether there are other programs where you can accomplish the same end result as you can with ESAA.

Dr. **JEFFERSON**. Under the current regulations of Title I we wouldn't have the flexibility we need. It is very important that a district be allowed to develop programs working with faculty members and community and students in the area of personal relations in the area of trying to develop those human relations which are very important if the classroom climate is to be productive. I think under the current legislation of Title I, it is very restrictive to working strictly with the basic academic skills in schools. Therefore, districts would be prevented from doing that.

That is only one example. It seems to me the restrictive nature of Title I makes it difficult to apply to the problems of a district undergoing desegregation. I am sure there are other examples, also.

In summary, under the current Title I regulations and guidelines, we have found it impossible to carry on the many activities we carry on, had we not had the Emergency School Aid funds.

Mr. **BAKER**. First of all, Title I has never been fully funded. The desegregation program has done another thing; because of the pairing and clustering of schools, we have included geographic areas once not included in Title I in the Title I schools.

Secondly, the kind of activities, and this reiterates what Dr. Jefferson said, allowable under ESAA are not allowable under Title I. We take a look at our desegregation aides who work on buses and schools and mini-counseling the students. Our third issue would be, one of the crucial needs in a community is the support of the community. This would involve in a school system such as Minneapolis, the higher liaison people who work both with the school community and the community from which students come with parents to meetings at night, et cetera. These kinds of activities wouldn't be allowable under Title I nor do I see any other sources which would allow us to have these privileges.

Chairman **PERKINS**. I certainly want to thank you gentlemen here.

I will ask you, Dr. Lucas and Dr. Jefferson, one question: Los Angeles and Detroit were refused ESAA funds until after you integrated your staff. Do you think there is any way you could receive funds to help in integration while still keeping the pressure on to move along with integration?

Dr. **JEFFERSON**. There is no equivocation on my part nor on the part of the district as to the basic premise that a faculty ought to be reflective of the composition of the community it serves as well as the student body it serves. So I don't want anything inferred, on my part at least, that we have any quarrels on the district level, to move toward the racial mixing of our faculties. As a matter of fact, in our district we had even gone further than that before we were with a court order.

I think in the final analysis, when a school district is under a court order it has no option but to move to segregate its student population. It seems to me the intent of the Emergency School Aid Act, if it is to be carried out, there should be ways if a school district shows good faith in moving, it may not have achieved its full objectives, but there can be demonstrated evidence they are moving ahead, the funds should not be withheld until they have achieved their "goal."

In the meantime, the school children of the district, which we are all honored to serve, are suffering because of the inability of the school district to generate funds to provide the necessary services.

I might say in that connection, although we come to Washington and look to the Federal Government, looking for additional funds, we don't come here merely to look for additional funds. We recognize there are priorities here but we also recognize it is legitimate for us to come to our Federal Government for aid which is not available either at the state or local level. Many of our districts are suffering from sheer lack of funds and our ability to do some of those things for our youngsters would be limited unless we take every option available to us.

Mr. **LUCAS**. Los Angeles looks at this effort as a commingled task, the balance of staff and integration of students at one time.

Because of fiscal restraints we have them in tandem. We are trying to balance our staff—as I indicated, over 2500 teachers transferred in two years—then finance a student program.

In the south central portion of our district where a majority of our Title I funds are spent, the district made a concerted effort to recruit minority teachers, the philosophy being the children assigned to those schools would be provided with their own model.

Now, we are in the position of taking those very minority teachers we have recruited and who have been in those schools for five or six years now and transferring them out into the so-called majority district. That is a horrendous task in itself. We think the regulations precluding our getting funds preclude us again from making this a commingled task as we see it.

Chairman PERKINS. All right.

Let me thank all you gentlemen.

Our next witness is Mr. Cohen.

You may proceed in any way you like, Mr. Cohen.

STATEMENT OF HON. WILLIAM S. COHEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MAINE

Mr. COHEN. I am very glad to be here this morning addressing an issue that has not received the attention it deserves. Franco-Americans are one of this country's largest ethnic populations, and yet, they have been denied access to tools afforded other groups in their quest for educational equality. To rectify this situation, I have introduced legislation, H.R. 1948, to amend the Emergency School Aid Act so that Franco-Americans will be afforded the same benefits as other minority groups under the Act.

[The legislation referred to follows:]

95TH CONGRESS
1ST SESSION

H. R. 1948

IN THE HOUSE OF REPRESENTATIVES

JANUARY 17, 1977

Mr. COHEN introduced the following bill; which was referred to the Committee on Education and Labor

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A BILL

To amend the Emergency School Aid Act to extend to Franco-Americans the same benefits afforded other minority groups under that Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 720 (9) (A) of the Emergency School Aid Act is amended by inserting after "Portuguese," the following: "Franco-Americans".

(b) Section 720 (9) (B) of such Act is amended by inserting before the period at the end thereof the following: ", and the term 'Franco-American' means a person in whose family the dominant language is French".

SEC. 2. The amendments made by the first section shall become effective on the date of enactment.

I

Mr. COHEN. Most Americans and most of my colleagues are unaware of the Franco-American situation in the United States because certain historical and economic factors have tended to isolate this ethnic group in Louisiana and in the New England States. According to the 1970 U.S. census, however, Franco-Americans constitute the sixth largest minority group in America and the third largest non-English speaking population group.

Furthermore, available evidence indicates that this minority is one of the more disadvantaged ethnic populations in New England and in the United States. Of the nine largest self-identified ethnic origin groups examined in the Current Population Survey of the U.S. Census compiled in March of 1972, Franco-Americans ranked only above Spanish Americans in terms of median income and education for the U.S. as a whole. According to a study done at the University of Maine at Portland, second generation Franco-Americans in New England ranked last among nine ethnic groups both in terms of education and income.

Despite these statistics and the size of their community, Franco-Americans have not been legally recognized as a minority under the Emergency School Aid Act, even though ethnic groups much smaller in number have been. The effect has been to deny Franco-Americans participation in programs which could be vital to their success in our society.

I think you would agree, Mr. Chairman, no other public institution has a greater impact on our expectations for the future than the school. The Emergency School Aid Act was designed to deal with discrimination and foster equal opportunity in our public schools. We have discovered that mere physical integration is inadequate to remedy the discrimination suffered by the child who speaks and thinks in one language and is required to learn in another.

Ethnic students have special educational problems which have often impaired their ability to succeed in public schools. No longer can we assume that by providing a child with the same facilities, textbooks, teachers, and curriculum as other children, that the child will enjoy equal educational opportunities. If that child cannot understand the medium in which the material is taught, he is effectively excluded from the educational process and is a victim of fundamental discrimination.

In my own State of Maine, a bilingual education program has been operating for the past seven years. It has demonstrated the need for and the potential success of special education programs for Franco-Americans.

I believe this committee took testimony within the past week or so from the gentleman heading this program.

Although there are areas of my state where the French language is spoken in the home 60 to 90 percent of the time, state law forbade its use in the schools until 1969. The following year, standardized tests revealed that the achievement level of students from French-speaking areas was well below the national norm in English language competency areas. As even greater percentage fell below the norm in other academic areas.

Today, the success of the bilingual program has been demonstrated by marked improvements in students' test scores. They are achieving at or above their grade level in all academic areas.

Those of us who are fully matriculated into our monolingual-monocultural society find it hard to appreciate the problems which face Franco-Americans and other ethnic groups. Educators know that exclusion from one's own cultural heritage and history, from one's language and community, can be so destructive to the self-confidence of a student that he gradually loses his ability to learn. Ethnic students must be able to relate their mother tongue to their personal identity, because language and the culture it carries with it are at the very core of a child's self-concept. Whole generations of children have been denied an effective education, without which the chances for upward mobility in our society are effectively blocked.

How we answer the needs of the Franco-American is of prime importance. In 1974, officials within the Department of Health, Education and Welfare were successful in exercising some administrative discretion to include Franco-Americans under the Emergency School Assistance Act for a public broadcasting series developed in Maine for Franco-American children. Recognizing that there is a continuing need for such programs, a New Hampshire network has been successful this year in obtaining funds for a similar series of programs.

However, this process can only be undertaken on a case-by-case basis, holding up much needed programs for long periods. My bill will allow Franco-Americans to participate equally with the nation's other recognized ethnic groups in programs of bilingual education, in new school curricula of particular relevance and utility to the group, in training of professional staffs and teachers to help meet the specialized needs of Franco-Americans, and in formulating programs to bring cultural and ethnic relevance to community activities.

I have a number of letters written to me.

Chairman Perkins. Those will be inserted in the record, without objection.

[The letters and material referred to follow:]

JUN 7 1977

FERNAND J. ST GERMAIN
1st District, Rhode Island

[illegible] Rayburn House Office Building
Washington, D.C. [illegible]

200 John E. Fogarty Building
Providence, R.I. [illegible]
Tel.: [illegible]

Congress of the United States
House of Representatives
Washington, D.C. 20515

Committees:
BANKING, CURRENCY AND HOUSING
Chairman, Subcommittee on Financial Institutions Supervision, Regulation and Insurance

GOVERNMENT OPERATIONS

SMALL BUSINESS

June 6, 1977

Honorable William S. Cohen
412 Cannon House Office Building
Washington, D.C. 20515

Dear Colleague:

The President of CODOFINE, Council for the Development of French in New England, Dr. Paul P. Chasse, has brought to my special attention the fact that your bill, H.R. 1948, is scheduled for discussion by the Committee on Education and Labor during the period June 13-15, and I want to take this opportunity to indicate my full support for your proposed Emergency School Aid Act amendment.

As you can imagine, I have always done what I could in the interest of the Franco-American community not only in Rhode Island but throughout the New England area, and you may certainly count on my support for your proposal when it comes before me for final action.

With all good wishes, I am

Sincerely,

Fernand J. St Germain
Member of Congress

FJStG/js

CONSEIL POUR LE DEVELOPPEMENT DU FRANÇAIS EN NOUVELLE-ANGLETERRE
Council for the Development of French in New England
Collège Notre-Dame—Manchester, New Hampshire 03103

June 8, 1977

The Subcommittee on Elementary Secondary Education
of the House Education and Labor Committee
Washington, D.C.

Dear Committee Members:

This is to indicate that I have read the "Petition to the Congress of the United States" signed by representatives of major Franco American organizations in New England in support of Bill HR 1948 sponsored by Congressman William S. Cohen of Maine and that CODOFINE fully endorses said "Petition".

However, CODOFINE not only seeks to maintain the linguistic and cultural assets of New England's Franco American community, but it especially seeks Congressional legislation which would allow for extensive bilingual and bicultural educational programs in our States, and in others, where the Franco American subgroup is disadvantaged educationally, politically, socially and economically---as is evident in the high percentage of school dropouts among our children, in the low-income factor among our young, in the unrewarding occupational status of our laborers...to say nothing of the disproportionate number of college graduates and professionals among our people, and in the wretched conditions many of our elderly find themselves because of their inability to read English and to thus share in our national or state compensatory programs.

Official U.S. Census reports clearly indicate that the Franco American ranks ONLY ABOVE THE SPANISH AMERICAN IN TERMS OF MEDIAN INCOME AND EDUCATION for the United States as a whole.

CODOFINE seeks Congressional approval of HR 1948 as a first formal step in redressing such a deplorable situation. It seeks the legislation of a new official non-discriminatory policy vis-à-vis five million Americans whose future "visibility" or continued invisibility lies in your hands.

It would be most fitting, as we celebrate the bicentennial of Lafayette's arrival to our country this month, that Congress act toward our country's French-speaking minority as resolutely and as enthusiastically as did the Marquis in America's favor two hundred years ago.

All we are seeking, actually, is equality and justice for all...with Congress's stamp of approval and encouragement in our efforts to become even better, more productive, happier citizens capable of participating more successfully in an American society capable of recognizing the cultural and ethnic relevance of Franco Americans in these United States. Thank you in advance for your support.

Yours sincerely,
Paul P. Chassé
Dr. Paul P. Chassé
President, CODOFINE
Somersworth, N.H. 03878

NORM D'AMOURS
1st District, New Hampshire

Standing Committees:
BANKING, FINANCE
AND URBAN AFFAIRS

MERCHANT MARINE AND
FISHERIES

MEMBER—STEERING
AND POLICY
COMMITTEE

Congreſs of the United States
House of Representatives
Washington, D.C. 20515

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425 and 426 Federal Building
80 Daniel Street
(603) 436-7720, Ext. 707
Laconia, New Hampshire 03246
200 and 223 Federal Building
719 Main Street
(603) 524-7165

June 14, 1977

Honorable William S. Cohen
412 Cannon H.O.B.
Washington, D.C. 20515

Dear Bill:

Franco-Americans comprise one of the largest ethnic minority groups in this country. Yet, Americans are scarcely aware of the seemingly insurmountable language and cultural barriers many of these good citizens encounter in coping with life within our society.

My purpose in writing is to express my strong support for your bill, H.R. 1948, which would grant minority status to French speaking Franco-Americans for the purpose of the Emergency School Aid Act. The enactment of your legislation would greatly serve to eliminate the disadvantages which hinder many Franco-Americans from realizing their full potential through our public school system.

Although Franco-Americans reside in all parts of this country, social and economic factors have tended to influence their immigration patterns resulting in their concentration in specific geographic areas. According to the 1970 U.S. census, there were 96,251 New Hampshire residents for whom French is their mother tongue. This figure is startling when one stops to consider that it represents over 13% of the State's population, and 75% of all New Hampshire residents whose mother tongue is not English.

The educational system, as it is presently structured, serves to maintain the disadvantages French speaking Franco-Americans must cope with. Our schools function on the invalid assumption that all children entering the classroom have mastered the English language well enough to be taught various subject matters. The affect of this discriminatory assumption is to restrict their occupational opportunities, stifle their aspirations and perpetuate the disadvantages of the past.

The Emergency School Aid Act recognizes that our schools need not, and should not, impede the members of any ethnic or racial group from realizing their full capabilities in our society. It is for this very important reason that I support your efforts to extend the provisions of this act to French speaking Franco-Americans. In the long run, however, the true beneficiaries of this legislation will be all of the American people who will benefit through the contributions to our society these people would otherwise never have had the opportunity to make.

With best wishes, I am

Sincerely,

Norm D'Amours

NORMAN E. D'AMOURS
Member of Congress

NED/dr

JOHN BREAUX
7th District, Louisiana

Washington Address:
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Rayburn House Office Building
Phone: (202) [illegible]
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Congreſs of the United States
House of Representatives
Washington, D.C. 20515

Committees:

PUBLIC WORKS AND
TRANSPORTATION

MERCHANT MARINE
AND FISHERIES

AD HOC SELECT
COMMITTEE ON THE
OUTER CONTINENTAL
SHELF

June 15, 1977

Honorable Carl D. Perkins, Chairman
Subcommittee on Elementary, Secondary
  and Vocational Education
Committee on Education and Labor
B346C Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Perkins:

In regard to the hearings you are conducting on school aid legislation, I would like to take this opportunity to make known my support of legislation which would extend and amend the Emergency School Aid Act so that Franco Americans are afforded the same benefits as other minority groups under the Act.

As a previous sponsor of this measure, I am well aware of the fact that this minority is one of the more disadvantaged of the larger ethnic populations in Louisiana and the United States although they constitute the sixth largest minority in America.

Under the present Emergency School Aid Act, Franco Americans are not legally recognized as a minority although other much smaller minorities have been granted this recognition. Since no other public institution has a greater impact on our future than the school, the net effect of not having recognition has been to deny Franco Americans participation in programs which could be vital of their success in our society.

I would appreciate your favorable consideration of this legislation as I feel that without its passage, we would be ignoring one of the country's largest ethnic groups and denying them the tools afforded other groups in their quest for educational equality.

Regards.

Sincerely,
John Breaux
JOHN BREAUX, M.C.

JB:ap

Chairman **Perkins**. Let me ask you if you feel the ESAA provides funds basically for school integration for the Franco-Americans in Maine concentrated in their own school districts or spread out throughout other districts.

Mr. **Cohen**. They tend to be concentrated. St. John Valley is one, Lewiston, Maine, and the Biddeford-Saco area. We have large concentrations in those areas.

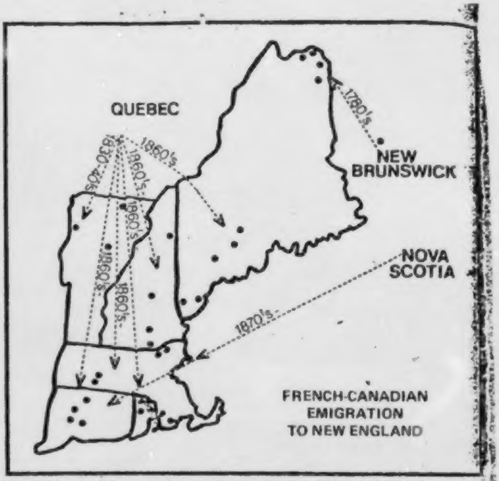
I have a list of statistical information I can also submit, listing the towns.

Chairman **Perkins**. Without objection, that will be inserted in the record.

[The information referred to follows:]

Major Franco-American Concentrations:
French Mother-Tongue Population
Percentages*

MAINE	14.2%
Van Buren Town	93.9%
Madawaska Town	89.1%
Fort Kent Town	85.9%
Biddeford	61.4%
Lewiston	59.9%
Sanford	38.1%
Waterville	30.0%
Augusta	29.3%
Caribou	23.7%
NEW HAMPSHIRE	15.2%
Berlin	60.5%
Manchester	31.7%
Nashua	27.4%
Laconia	21.3%
VERMONT	9.5%
Orleans	24.8%
Barre	15.8%
Burlington	12.0%
MASSACHUSETTS	6.4%
Lowell	20.4%
Chicopee	20.4%
Fall River	17.6%
Lawrence	17.5%
Holyoke	16.3%
New Bedford	14.0%
CONNECTICUT	4.7%
Bristol	15.8%
Hartford	7.6%
Meriden	6.8%
Waterbury	5.0%
RHODE ISLAND	10.7%
Woonsocket	56.8%
Central Falls	36.3%
West Warwick	24.4%
Pawtucket	17.4%



*U. S. Department of Commerce, Bureau of the Census, Census of Population, 1970, General Soci and Economic Characteristics, N.E. States. Percentages compiled and computed by Madeleine Giguer

Maine Public Broadcasting Network
Alumni Hall
University of Maine
Orono, Maine 04473

ORONO MAINE

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FRENCH AMERICANS AS A MINORITY

They are characteristically low income families.

In Special Report P-E No. 3A Nativity and Parentage of the 1950 census, French-Americans were next to the bottom (Mexican-Americans were last) in terms of median income and third from the bottom in terms of education for the United States as a whole. In New England French-Americans were at the bottom of the nine groups studied in both education and income.

In School Administrative Districts #24, 27, 33, 65% of the students participate in free lunch programs. In these SAD's the per pupil property valuation is $3,000 or less, In SAD 24, 60% of families, K-1 families meet income requirements of OEO Guidelines for Headstart and 78% qualify for free lunch programs. These districts are in the St. John River Valley, where the French-American population is very high (See Appendix D).

They have characteristically poor health.

In recent health screening in Northern Maine's Aroostook County, the location of the predominantly French-American St. John River Valley, some 27% of the population have pathological anemia (caused by poor diet) as compared to less than 10% in Harlem. Dental referals are over 75% in this area compared to approximately 50% nationally.

Their children have low educational aspiration.

In a recent study of Caribou, Maine public schools, French-American dropout rates were approximately 40% of their student population, comprising nearly the entire dropout statistic. 1970 census reveals that in SAD #24, 65% of adults have not completed 12th grade while 50% have not completed grade eight. Average grade accomplished in the 94% French-American district is 9.2.

They have a self-deprecating opinion of their cultural-linguistic group.

Dr. Carlton Dubois, Van Buren Title I Administrator, has indicated that the single greatest problem outside of the school was the attitude of the parents that being French-American was detrimental and that speaking French was to be avoided for their children in order for them to succeed.

Their children are educationally disadvantaged.

In SAD #33, there is a striking decrease in median IQ from 4th grade to 12th grade, approximately 110 or less than 100. In the same SAD, French-American children consistently scored below their grade norms in all skills tested. At the University of Maine, it is a policy to allow extra points on CEEB results of St. John Valley French-American students because they realize that their previous educational disadvantage is not an indicator of their potential academic success.

Percent Population with French Mother Tongue: Maine Counties and State, 1970*

	Total Population	Fr.Mo. Tongue	%Fr.Mo. Tongue
State (total)	993,663	141,489	14.2
Androscoggin	91,279	35,940	39.4
Aroostook	94,078	27,442	29.2
Cumberland	192,528	11,286	5.9
Franklin	22,444	1,559	6.9
Hancock	34,590	403	1.2
Kennebec	95,247	18,264	19.2
Knox	29,013	211	0.7
Lincoln	20,537	200	1.0
Oxford	43,457	3,612	8.3
Penobscot	125,393	8,835	7.1
Piscataquis	16,285	845	5.2
Sagadahoc	23,452	1,174	5.0
Somerset	40,597	4,475	11.0
Waldo	23,328	467	2.0
Washington	29,859	500	1.7
York	111,576	26,226	23.5

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*Source: U.S. Department of Commerce, Bureau of the Census, 1970 Census of Population, General Social and Economic Characteristics, Maine, Table 119.

Percent French Mother Tongue for Towns and Places of 10,000 - 50,000: Maine, 1970*

	Total Population	Fr.Mo. Tongue	%Fr.Mo. Tongue
Auburn	24,151	6,938	28.7
Augusta	21,945	6,419	29.3
Bangor	33,168	1,861	5.6
Biddeford	19,983	12,268	61.4
Brunswick Center	10,867	2,156	19.8
Brunswick Town	16,195	2,488	15.4
Caribou	10,419	2,470	23.7
Kittery	11,028	474	4.3
Lewiston	41,779	25,037	59.9
Portland	65,116	2,747	4.2
Presque Isle	11,452	1,576	13.8
Saco	11,678	3,331	28.5
Sanford Center	10,457	4,333	41.4
Sanford Town	15,722	5,997	38.1
South Portland	23,312	906	3.9
Waterville	18,192	5,456	30.0
Westbrook	14,444	2,437	17.2

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*Source: U.S. Department of Commerce, Bureau of the Census, Census of Population, 1970, General Social and Economic Characteristics, Maine, Tables 102 and 81.

Percent French Mother Tongue:
Maine Towns of Under 10,000 and
with 400 or more French Language Persons

	Total Population	Fr. Mo. Tongue	%Fr. Mo Tongue
Ashland Town	1,809	604	33.4
Berwick Town	3,136	469	15.0
Brewer	9,300	499	5.4
Eagle Lake	979	933	95.3
Fairfield Town	5,684	799	10.1
Fort Fairfield Town	4,837	628	12.9
Fort Kent Town	4,587	3,929	85.9
Frenchville	1,487	1,441	96.6
Gorham	7,839	444	5.7
Grand Isle	755	736	97.5
Jackman Town	869	413	47.5
[illegible]	[illegible]	[illegible]	[illegible]
Kennebunk Town	5,578	445	8.0
Kittery Town	11,028	474	4.3
Limestone Town	10,360	645	7.4
Lisbon	6,649	1,135	17.3
Livermore Falls Town	3,450	777	22.5
Madawaska Town	5,622	4,977	89.1
Madison Town	4,492	628	14.7
Mexico Town	4,3091	672	15.6
Millincoket Town	7,544	993	12.9
Old Orchard Beach	5,404	977	10.1
Old Town City	9,057	1,763	19.5
Orono Town	9,967	768	7.7
Rumford Town	9,363	1,993	21.3
Skowhegan Town	7,607	925	12.2
South Berwick Town	3,488	484	13.9
St. Agatha	883	850	91.3
St. Francis Plant.	1,110	876	78.3
Topsham Town	5,133	674	13.1
Van Buren Town	4,102	3,844	93.9
Wallagrass Plantation	534	512	95.9
Webster	1,623	491	31.6
Winslow	7,299	2,832	39.3

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*Source: U.S. Department of Commerce, Bureau of the Census, 1970 Census of Population, Fourth Court (Population) Summary Tape.

PETITION

TO THE CONGRESS OF THE UNITED STATES OF AMERICA

to Amend the Emergency School Aid Act

as Proposed by H. R. 1948

We, the undersigned, represent a minority group of approximately 2,000,000 persons called "The Franco-Americans of New England." We hereby wish to inform the sub-committee of the House of Representatives studying H. R. 1948 that we strongly endorse the said bill so that the same benefits afforded other minority groups under the Emergency School Aid Act as now in force may be extended to the Franco-Americans of New England and to the other 3,000,000 Franco-Americans living in other parts of our country.

Whereas, the Franco-Americans of New England constitute a minority group, i. e., a special ethnic group of French, French-Canadian and Acadian origin now living together in New England; and

Whereas, the Franco-Americans of New England historically constitute a North American minority group living alongside other minority groups in the same area; and

Whereas, the Franco-Americans of New England constitute a group organized and still strongly structured with social, cultural and religious institutions; and

Whereas, the Franco-Americans of New England have preserved their ethnic identity, their many French cultural and linguistic values, integrating these assets into an American lifestyle; and

Whereas, the Franco-Americans of New England, as with other minority groups, because of the many social, religious, economic and political pressures exerted upon them since World War II, and because of the social upheavals of the last quarter-century, the Franco-Americans of New England have reached a point where they are in real danger of losing their French language, culture and identity; and

Whereas, the Franco-Americans of New England find themselves unable, by their own means, to overcome that crisis unless some relief and financial aid be made available to them from the outside, particularly from the Federal Government; and

Whereas, H. R. 1948, the amendment introduced by Mr. Cohen of Maine to the Emergency School Aid Act would provide the Franco-Americans of New England with many opportunities to obtain much needed educational assistance;

We, therefore, in the name of the *Franco-Americans of New England*, hereby strongly support H. R. 1948, A Bill to Amend the Emergency School Aid Act to Extend to Franco-Americans the same benefits afforded other minority groups under that Act; and

We hereby petition that the said Amendment to the Emergency School Aid Act be passed.

Dated at Manchester, New Hampshire
this sixth day of June, 1977.

Paul H. Blanchette
PAUL H. BLANCHETTE, President
French Television Cable Commission
Lowell, Massachusetts

Robert L Couturier
ROBERT L. COUTURIER, Chairman
Maine-Québec-Maritimes Exchange Commission
Lewiston, Maine

Normand C. Dubé
NORMAND C. DUBE
National Materials Development Center
Bedford, New Hampshire

Euclide D. Gilbert
EUCLIDE D. GILBERT
Franco-American Cultural Commission
Manchester, New Hampshire

Real P. Gilbert
REAL P. GILBERT, Director, American
Division, Artisans Life Ins. Society
Manchester, New Hampshire

Jean P. Gingras
JEAN-P. GINGRAS, Commissioner
American & Francophone Cultural Com.
of Connecticut - Bristol, Conn.

Thomas M. Landry o.p.
THOMAS M. LANDRY, O. P.
Comité de Vie Franco-Américaine
Fall River, Massachusetts

Eugene A. Lemieux
EUGENE-A. LEMIEUX, Secretary General
Association Canado-Américaine
New Bedford, Massachusetts

Edgar J. Martel

EDGAR J. MARTEL, President General
Union Saint-Jean-Baptiste
Woonsocket, Rhode Island

Louis-Israël Martel

LOUIS-ISRAEL MARTEL, Expansion Director for the U. S. A. - Richelieu International
Manchester, New Hampshire

François J. Martineau

FRANCOIS J. MARTINEAU, American and Canadian French Cultural Exchange Commission
Fall River, Massachusetts

Paul Paré

PAUL PARE (UNIFRAM)
Unité Franco-Américaine du Maine
Lewiston, Maine

Marthe A. Peloquin

MARTHE A. PELOQUIN
Fédération Féminine Franco-Américaine
Westford, Massachusetts

Gerald Robert

GERALD ROBERT, President
Conseil de la Vie française en Amérique
Québec

Mgr. Adrien Verrette

(Rt. Rev.) ADRIEN VERRETTE, President
Franco-American Historical Society
Boston, Massachusetts

Chairman **Perkins**. One further question: One of the main issues in this legislation is whether it should be continued as a separate program or whether we have other programs which can fulfill the purposes of this bill.

Can you tell us whether you are doing anything with these funds which you can't do under other programs?

Mr. **Cohen**. Well, I think the purpose behind the Act was to deal specifically with minorities who were having trouble learning materials taught basically in English. One of the programs might be available through this committee or through the Congress.

Chairman **Perkins**. Then you feel it is important to keep this program separate.

I want to thank you for your testimony this morning. You have been most helpful.

Do you want to ask any questions, Mr. Cross?

Mr. **Cross**. No.

Chairman **Perkins**. We have hearings commencing next Tuesday and they will continue for two weeks on impact aid legislation. We want to discuss the pros and cons of that program and have a general overview of the program to see whether there are better ways we can spend the money. I personally feel the Government should become a better partner than we presently happen to be, insofar as advancing elementary and secondary education in general. If you wish to come before the committee when we have those hearings, let me say we will be delighted to have you.

Mr. **Cohen**. I would simply like to indicate again, pertaining to Franco-American, they have a drop-out rate much higher than any other group. There is also a very low level of those entering into college from high school and that is principally because of the language barrier. We dismiss the notion of equal access to institutions not taking into account the impediments associated with English-speaking ability.

Chairman **Perkins**. Mr. Heftel.

Mr. **Heftel**. In Hawaii there is a high immigrant rate, Fiji, Samoa, the Philippines, and we are not adequately handling the bilingual transition. As a result we have serious problems both socially and educationally because the programs are not there. You have got to teach people how to handle the English language—small children and teenage children—if we are going to ask them to be in our society. I assume this is what we are referring to. We don't meet the problem adequately in Hawaii or anywhere else but I am able see it in Hawaii directly.

Chairman **Perkins**. Let me thank you.

The committee will now adjourn until next Tuesday.

Thank you very much, all of you.

[Whereupon, at 11:45 a.m., the committee was adjourned to reconvene Tuesday, June 21, 1977.]

APPENDIX

TITLE VII—EMERGENCY SCHOOL AID,[1] as amended

SHORT TITLE

SEC. 701. This title may be cited as the "Emergency School Aid Act."

FINDINGS AND PURPOSE

SEC. 702. (a) The Congress finds that the process of eliminating or preventing minority group isolation and improving the quality of education for all children often involves the expenditure of additional funds to which local educational agencies do not have access.

(b) The purpose of this title is to provide financial assistance—

(1) to meet the special needs incident to the elimination of minority group segregation and discrimination among students and faculty in elementary and secondary schools;

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[1] Title VII of P.L. 92-318.

(2) to encourage the voluntary elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority group students; and

(3) to aid school children in overcoming the educational disadvantages of minority group isolation.

POLICY WITH RESPECT TO THE APPLICATION OF CERTAIN PROVISIONS OF FEDERAL LAW

SEC. 703. (a) It is the policy of the United States that guidelines and criteria established pursuant to this title shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race in the schools of the local educational agencies of any State without regard to the origin or cause of such segregation.

(b) It is the policy of the United States that guidelines and criteria established pursuant to title VI of the Civil Rights Act of 1964 and section 182 of the Elementary and Secondary Education Amendments of 1966 shall be applied uniformly in all regions of the United States in dealing with conditions of segregation by race whether de jure or de facto in the schools of the local educational agencies of any State without regard to the origin or cause of such segregation.

APPROPRIATIONS

SEC. 704. (a) The Assistant Secretary shall, in accordance with the provisions of this title, carry out a program designed to achieve the purpose set forth in section 702(b). There are authorized to be appropriated for the purpose of carrying out this title, $1,000,000,000 for the fiscal year ending June 30, 1973, and $1,000,000,000 for the period ending June 30, 1976, Funds so appropriated shall remain available for obligation and expenditure during the fiscal year succeeding the fiscal year for which they are appropriated.

and $1,000,000,000 for the period beginning July 1, 1976, and ending September 30, 1979, except that of the sums available under section 708 (a), the Assistant Secretary is limited in the use of such sums to an amount, not more than 5 percent, which may be used for providing compensatory services to students who had previously received such services funded in whole or in part under title I of the Elementary and Secondary Education Act of 1965, but who are no longer receiving such services as a result of attendance area changes under a desegregation order or plan issued after August 21, 1974.

(b)

From the sums appropriated pursuant to subsection (a) for any fiscal year, the Assistant Secretary shall reserve an amount equal to 13 per centum thereof for the purposes of sections 708 (a) and (c), 711, and 713, of which—

(A) not less than an amount equal to 4 per centum of such sums shall be for the purposes of section 708(c); and

(B) not less than an amount equal to 3 per centum of such sums shall be for the purposes of section 711.

(C) and (D) - See page 155a

(c) There are authorized to be appropriated, in addition to the sums authorized under subsection (a) of this section, $50,000,000 for fiscal year 1977, and $100,000,000 for fiscal year 1978, for the purpose of carrying out section 708(a), relating to special programs and projects. The provisions of section 705, relating to apportionment among the States, shall not apply to sums appropriated pursuant to this subsection.

(d) There are authorized to be appropriated in addition to the sums authorized under subsection (a) of this section $25,000,000 for fiscal year 1977 and $50,000,000 for fiscal year 1978, for the purpose of carrying out activities specified in paragraphs (13) through (15) of section 707(a) of this Act. The provisions of section 705, relating to apportionment among the States, shall not apply to sums appropriated pursuant to this subsection.

APPORTIONMENT AMONG STATES

SEC. 705. (a)(1) From the sums appropriated pursuant to section 704(a) which are not reserved under section 704(b) for any fiscal year, the Assistant Secretary shall apportion to each State for grants and contracts within that State $75,000 plus an amount which bears the same ratio to such sums as to the number of minority group children aged 5–17, inclusive, in that State bears to the number of such children in all States except that the amount apportioned to any State shall not be less than $100,000. The number of such children in each State and in all of the States shall be determined by the Assistant Secretary on the basis of the most recent available data satisfactory to him.

(2) The Assistant Secretary shall, in accordance with criteria established by regulation, reserve not in excess of 15 per centum of the sums appropriated pursuant to subsection 704(a) for grants to, and contracts with, local educational agencies in each State pursuant to section 706(b) to be apportioned to each State in accordance with paragraph (1) of this subsection.

(3) The Assistant Secretary shall reserve 8 per centum of the sums appropriated pursuant to subsection 704(a) for the purpose of section 708(b) to be apportioned to each State in accordance with paragraph (1) of this subsection.

(b)(1) The amount by which any apportionment to a State for a fiscal year under subsection (a) exceeds the amount which the Assistant Secretary determines will be required for such fiscal year for programs or projects within such State shall be available for reapportionment to other States in proportion to the original apportionments to such States under subsection (a) for that year, but with such proportionate amount for any such State being reduced to the extent it exceeds the sum the Assistant Secretary estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly reapportioned among the States whose proportionate amounts were not so reduced. Any amounts reapportioned to a State under this subsection during a fiscal year shall be deemed part of its apportionment under subsection (a) for such year.

(2) In order to afford ample opportunity for all eligible applicants in a State to submit applications for assistance under this title, the Assistant Secretary shall not fix a date for reapportionment, pursuant to this subsection, of any portion of any apportionment to a State for a fiscal year which date is earlier than sixty days prior to the end of such fiscal year.

(3) Notwithstanding the provisions of paragrapph (1) of this subsection, no portion of any apportionment to a State for a fiscal year shall be available for reapportionment pursuant to this subsection unless the Assistant Secretary determines that the applications for assistance under this title which have been filed by eligible applicants in that State for which a portion of such apportionment has not been reserved (but which would necessitate use of that portion) are applications which do not meet the requirements of this title, as set forth

in sections 706, 707, and 710, or which set forth programs or projects of such insufficient promise for achieving the purpose of this title stated in section 702(b) that their approval is not warranted.

ELIGIBILITY FOR ASSISTANCE

SEC. 706. (a)(1) The Assistant Secretary is authorized to make a grant to, or a contract with, a local educational agency—

(A) which is implementing a plan—

(i) which has been undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, and which requires the desegregation of minority group segregated children or faculty in the elementary and secondary schools of such agency, or otherwise requires the elimination or reduction of minority group isolation in such schools; or

(ii) which has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority group segregated children or faculty in such schools; or

(B) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement, a plan for the complete elimination of minority group isolation in all the minority group isolated schools of such agency; or

(C) which has adopted and is implementing, or will, if assistance is made available to it under this Act, adopt and implement, a plan—

(i) to eliminate or reduce minority group isolation in one or more of the minority group isolated schools of such agency,

(ii) to reduce the total number of minority group children who are in minority group isolated schools of such agency, or

(iii) to prevent minority group isolation reasonably likely to occur (in the absence of assistance under this title) in any school in such district in which school at least 20 per centum but not more than 50 per centum, of the enrollment consists of such children, or

(D) which, without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement a plan to enroll and educate in the schools of such agency children who would not otherwise be eligible for enrollment because of nonresidence in the school district of such agency, where such enrollment would make a significant contribution toward reducing minority group isolation in one or more of the school districts to which such plan relates; or

(E) which will establish or maintain one or more integrated schools as defined in section 720(7) and which—

(i) has a sufficient number of minority group children to comprise more than 50 per centum of the number of children in attendance at the schools of such agency, and

(ii) has agreed to apply for an equal amount of assistance under section (b).

(2)(A) The Assistant Secretary is authorized, in accordance with special eligibility criteria established by regulation for the purposes of this paragraph, to make grants to, and contracts with, local educational agencies for the purposes of section 709(a)(1).

(B) A local educational agency shall be eligible for assistance under this paragraph only if—

(i) such agency is located within, or adjacent to, a Standard Metropolitan Statistical Area:

(ii) the schools of such agency are not attended by minority group children in a significant number or proportion; and

(iii) such local educational agency has made joint arrangements with a local educational agency, located within that Standard Metropolitan Statistical Area, and the schools of which are attended by minority group children in a significant proportion, for the establishment or maintenance of one or more integrated schools as provided in section 720(6).

(b) The Assistant Secretary is authorized to make grants to, or contracts with, local educational agencies, which are eligible under subsection (a)(1), for unusually promising pilot programs or projects designed to overcome the adverse effects of minority group isolation by improving the academic achievement of children in one or more minority group isolated schools, if he determines that the local educational agency had a number of minority group children enrolled in its schools, for the fiscal year preceding the fiscal year for which assistance is to be provided, which (1) is at least 15,000, or (2) consistutes more than 50 per centum of the total number of children enrolled in such schools.

(c) No local educational agency making application under this section shall be eligible to receive a grant or contract in an amount in excess of the amount determined by the Assistant Secretary, in accordance with regulations setting forth criteria established for such purpose, to be the additional cost to the applicant arising out of activities authorized under this title, above that of the activities normally carried out by the local educational agency.

(d)(1) No educational agency shall be eligible for assistance under this title if it has, after the date of enactment of this title—

(A) transferred (directly or indirectly by gift, lease, loan, sale, or other means) real or personal property to, or made any services available to, any transferee which it knew or reasonably should have known to be a nonpublic school or school system (or any organization controlling, or intending to establish, such a school or school system) without prior determination that such nonpublic school or school system (i) is not operated on a racially segregated basis as an alternative for children seeking to avoid attendance in desegregated public schools, and (ii) does not otherwise practice, or permit to be practiced, discrimination on the basis of race, color, or national origin in the operation of any school activity;

(B) had in effect any practice, policy, or procedure which results in the disproportionate demotion or dismissal of instructional or other personnel from minority groups in conjunction with desegregation or the implementation of any plan or the conduct of any activity described in this section, or otherwise engaged in discrimination based upon race, color, or national origin in the hiring, promotion, or assignment of employees of the agency (or other personnel for whom the agency has any administrative responsibility);

(C) in conjunction with desegregation or the conduct of an activity described in this section, had in effect any procedure for the assignment of children to or within classes which results in the separation of minority group from nonminority group children for a substantial portion of the school day, except that this clause does not prohibit the use of bona fide ability grouping by a local education agency as a standard pedagogical practice; or

(D) had in effect any other practice, policy, or procedure, such as limiting curricular or extracurricular activities (or participation therein by children) in order to avoid the participation of minority group children in such activities, which discriminates among children on the basis of race, color, or national origin;

except that, in the case of any local educational agency which is ineligible for assistance by reason of clause (A), (B), (C), or (D), such agency may make application for a waiver of ineligibility, which application shall specify the reason for its ineligibility, contain such information and assurances as the Secretary shall require by regulation in order to insure that any practice, policy, or procedure, or other activity resulting in the ineligibility has ceased to exit or occur and include such provisions as are necessary to insure that such activities do not reoccur after the submission of the application.

(2) Applications for waivers under paragraph (1) may be approved only by the Secretary. The Secretary's functions under this paragraph shall, notwithstanding any other provision of law, not be delegated.

(3) Applications for waiver shall be granted by the Secretary upon determination that any practice, policy, procedure or other activity resulting in ineligibility has ceased to exist, and that the applicant has given satisfactory assurance that the activities prohibited in this subsection will not reoccur.

(4) No application for assistance under this title shall be approved prior to a determination by the Secretary that the applicant is not ineligible by reason of this subsection.

(5) All determinations pursuant to this subsection shall be carried out in accordance with criteria and investigative procedures established by regulations of the Secretary for the purpose of compliance with this subsection.

(6) All determinations and waivers pursuant to this subsection shall be in writing. The Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House

of Representatives shall each be given notice of an intention to grant any waiver under this subsection, which notice shall be accompanied by a copy of the proposed waiver for which notice is given and copies of all determinations relating to such waiver. The Assistant Secretary shall not approve an application by a local educational agency which requires a waiver under this subsection prior to 15 days after receipt of the notice required by the preceding sentence by the chairman of the Committee on Labor and Public Welfare of the Senate and the chairman of the Committee on Education and Labor of the House of Representatives.

AUTHORIZED ACTIVITIES

SEC. 707. (a) Financial assistance under this title (except as provided by sections 708, 709, and 711) shall be available for programs and projects which would not otherwise be funded and which involve activities designed to carry out the purpose of this title stated in section 702(b):

(1) Remedial services, beyond those provided under the regular school program conducted by the local educational agency, including student to student tutoring, to meet the special needs of children (including gifted and talented children) in schools which are affected by a plan or activity described in section 706 or a program described in section 708, when such services are deemed necessary to the success of such plan, activity, or program.

(2) The provision of additional professional or other staff members (including staff members specially trained in problems incident to desegregation or the elimination, reduction, or prevention of minority group isolation) and the training and retraining of staff for such schools.

(3) Recruiting, hiring, and training of teacher aides, provided that in recruiting teacher aides, preference shall be given to parents of children attending schools assisted under this title.

(4) Inservice teacher training designed to enhance the success of schools assisted under this title through contracts with institutions of higher education, or other institutions, agencies, and organizations individually determined by the Assistant Secretary to have special competence for such purpose.

(5) Comprehensive guidance, counseling, and other personal services for such children.

(6) The development and use of new curricula and instructional methods, practices, and techniques (and the acquisition of instructional materials relating thereto) to support a program of instruction for children from all racial, ethnic, and economic backgrounds, including instruction in the language and cultural heritage of minority groups.

(7) Educational programs using shared facilities for career education and other specialized activities.

(8) Innovative interracial educational programs or projects involving the joint participation of minority group children and other children attending different schools, including extracurric-

ular activities and cooperative exchanges or other arrangements between schools within the same or different school districts.

(9) Community activities, including public information efforts, in support of a plan, program, project, or activity described in this title.

(10) Administrative and auxiliary services to facilitate the success of the program, project, or activity.

(11) Planning programs, projects, or activities under this title, the evaluation of such programs, projects, or activities, and dissemination of information with respect to such programs, projects, or activities.

(12) Repair or minor remodeling or alteration of existing school facilities (including the acquisition, installation, modernization, or replacement of instructional equipment) and the lease or purchase of mobile classroom units or other mobile education facilities.

(13) Planning and design of, and conduct of programs in, magnet schools.

(14) The pairing of schools and programs with specific colleges and universities and with leading businesses.

(15) The development of plans for neutral site schools.

In the case of programs, projects, or activities involving activities described in pargraph (12), the inclusion of such activities must be found to be a necessary component of, or necessary to facilitate, a program or project involving other activities described in this subsection or subsection (b), and in no case involve an expenditure in excess of 10 per centum of the amount made available to the applicant to carry out the program, project, or activity. The Assistant Secretary shall by regulation define the term "repair or minor remodeling or alteration".

(b) Sums reserved under section 705(a)(2) with respect to any State shall be available for grants to, and contracts with, local educational agencies in that State making application for assistance under section 706(b) to carry out innovative pilot programs and projects which are specifically designed to assist in overcoming the adverse effects of minority group isolation, by improving the educational achievement of children in minority group isolated schools, including only the activities described in paragraphs (1) through (12) of subsection (a), as they may be used to accomplish such purpose.

SPECIAL PROGRAMS AND PROJECTS

Sec. 708. (a)(1) Amounts reserved by the Assistant Secretary pursuant to section 704(b)(2), which are not designated for the purposes of clause (A) or (B) thereof, or for section 713 shall be available to him for grants and contracts under this subsection.

(2) The Assistant Secretary is authorized to make grants to, and contracts with, State and local educational agencies, and other public agencies and organizations (or a combination of such agencies and organizations) for the purpose of conducting special programs and projects carrying out activities otherwise authorized by this title, which the Assistant Secretary determines will make substantial progress toward achieving the purposes of this title.

(3) The Assistant Secretary is authorized to make grants to, and contracts with, one or more private, nonprofit agencies, institutions, or organizations, for the conduct, in cooperation with one or more local

educational agencies, of special programs for the teaching of standard mathematics to children eligible for services under this Act through instruction in advanced mathematics by qualified instructors with bachelor degrees in mathematics, or the mathematical sciences from colleges or other institutions of higher education, or equivalent experience.

(b)(1) From not more than one-half of the sums reserved pursuant to section 708(a)(3), the Assistant Secretary, in cases in which he finds that it would effectively carry out the purpose of this title stated in section 702(b), may assist by grant or contract any public or private nonprofit agency, institution, or organization (other than a local educational agency) to carry out programs or projects designed to support the development or implementation of a plan, program, or activity described in section 706.

(2) From the remainder of the sums reserved pursuant to section 708(a)(3), the Assistant Secretary is authorized to make grants to, and contracts with, public and private nonprofit agencies, institutions, and organizations (other than local educational agencies and nonpublic elementary and secondary schools) to carry out programs or projects designed to support the development or implementation of a plan, program, or activity described in section 706.

(c)(1) The Assistant Secretary shall carry out a program to meet the needs of minority group children who are from an environment in which a dominant language is other than English and who, because of language barriers and cultural differences, do not have equality of educational opportunity. From the amount reserved pursuant to section 704(b)(2)(A), the Assistant Secretary is authorized to make grants to, and contracts with—

(A) private nonprofit agencies, institutions, and organizations to develop curricula, at the request of one or more educational agencies which are eligible for assistance under section 706, designed to meet the special educational needs of minority group children who are from environments in which a dominant language is other than English, for the development of reading, writing, and speaking skills, in the English language and in the language of their parents or grandparents, and to meet the educational needs of such children and their classmates to understand the history and cultural background of the minority groups of which such children are members;

(B) local educational agencies eligible for assistance under section 706 for the purpose of engaging in such activities; or

(C) local educational agencies which are eligible to receive assistance under section 706, for the purpose of carrying out activities authorized under section 707(a) of this title to implement curricula developed under clauses (A) and (B) or curricula otherwise developed which the Assistant Secretary determines meets the purposes stated in clause (A).

In making grants and contracts under this paragraph, the Assistant Secretary shall assure that sufficient funds from the amount reserved pursuant to section 704(b)(2)(A) remain available to provide for grants and contracts under clause (C) of this paragraph for implementation of such curricula as the Assistant Secretary determines meet the purposes stated in clause (A) of this paragraph. In making a grant or contract under clause (C) of this paragraph, the Assistant Secretary shall take whatever action is necessary to assure that the implementation plan includes provisions adequate to insure training of teachers and other ancillary educational personnel.

(2)(A) In order to be eligible for a grant or contract under this subsection—

(i) a local educational agency must establish a program or project committee meeting the requirements of subparagraph (B), which will fully participate in the preparation of the application under this subsection and in the implementation of the program or project and join in submitting such application; and

(ii) a private nonprofit agency, institution, or organization must (I) establish a program or project board of not less than ten members which meets the requirements of subparagraph (B) and which shall exercise policymaking authority with respect to the program or project and (II) have demonstrated to the Assistant Secretary that it has the capacity to obtain the services of adequately trained and qualified staff.

(B) A program or project committee or board, established pursuant to subparagraph (A) must be broadly representative of parents, school officials, teachers, and interested members of the community or communities to be served, not less than half of the members of which shall be parents and not less than half of the members of which shall be members of the minority group the educational needs of which the program or project is intended to meet.

(3) All programs or projects assisted under this subsection shall be specifically designed to complement any programs or projects carried out by the local educational agency under section 706. The Assistant Secretary shall insure that programs of Federal financial assistance related to the purposes of this subsection are coordinated and carried out in a manner consistent with the provisions of this subsection, to the extent consistent with other law.

METROPOLITAN AREA PROJECTS

Sec. 709. (a) Sums available to the Assistant Secretary under section 708 for metropolitan area projects shall be available for the following purposes:

(1) A program of grants to, and contracts with, local educational agencies which are eligible under section 706(a)(2) in order to assist them in establishing and maintaining integrated schools as defined in section 720(6).

(2) A program of any grant to groups of local educational agencies located in a Standard Metropolitan Statistical Area for the joint development of a plan to reduce and eliminate minority group isolation, to the maximum extent possible, in the public elementary and secondary schools in the Standard Metropolitan Statistical Area, which shall, as a minimum, provide that by a date certain, but in no event later than July 1, 1983, the percentage of minority group children enrolled in each school in the

Standard Metropolitan Statistical Area shall be at least 50 per centum of the percentage of minority group children enrolled in all the schools in the Standard Metropolitan Statistical Area. No grant may be made under this paragraph unless—

(A) two-thirds or more of the local educational agencies in the Standard Metropolitan Statistical Area have approved the application, and

(B) the number of students in the schools of the local educational agencies which have approved the application constitutes two-thirds or more of the number of students in the schools of all the local educational agencies in the Standard Metropolitan Statistical Area.

(b) In making grants and contracts under this section, the Assistant Secretary shall insure that at least one grant shall be for the purposes of paragraph (2) of subsection (a).

APPLICATIONS

Sec. 710. (a) Any local educational agency desiring to receive assistance under this title for any fiscal year shall submit to the Assistant Secretary an application therefor for that fiscal year at such time, in such form, and containing such information as the Assistant Secretary shall require by regulation. Such application, together with all correspondence and other written materials relating thereto, shall be made readily available to the public by the applicant and by the Assistant Secretary. The Assistant Secretary may approve such an application only if he determines that such application—

(1) in the case of applications under section 706, sets forth a program under which, and such policies and procedures as will assure that, (A) the applicant will use the funds received under this title only for the activities set forth in section 707 and (B) in the case of an application under section 706(b), the applicant will initiate or expand an innovative program specifically designed to meet the educational needs of children attending one or more minority group isolated schools;

(2) has been developed—

(A) in open consultation with parents, teachers, and, where applicable, secondary school students, including public hearings at which such persons have had a full opportunity to understand the program for which assistance is being sought and to offer recommendations thereon, and

(B) except in the case of applications under section 706(c), with the participation of a committee composed of parents of children participating in the program for which assistance is sought, teachers, and, where applicable, secondary school students, of which at least half the members shall be such parents, and at least half shall be persons from minority groups;

(3) sets forth such policies and procedures as will insure that the program for which assistance is sought will be operated in con-

sultation with, and with the involvement of, parents of the children and representatives of the area to be served, including the committee established for the purposes of clause (3)(B);

(4) sets forth such policies and procedures, and contains such information, as will insure that funds paid to the applicant under the application will be used solely to pay the additional cost to the applicant in carrying out the plan, program, and activity described in the application;

(5) contains such assurances and other information as will insure that the program for which assistance is sought will be administered by the applicant, and that any funds received by the applicant, and any property derived therefrom, will remain under the administration and control of the applicant;

(6) sets forth assurances that the applicant is not reasonably able to provide, out of non-Federal sources, the assistance for which the application is made;

(7) provides that the plan with respect to which such agency is seeking assistance (as specified in section 708(a)(1)(A) does not involve freedom of choice as a means of desegregation, unless the Assistant Secretary determines that freedom of choice has achieved, or will achieve, the complete elimination of a dual school system in the school district of such agency;

(8) provides assurances that for each academic year for which assistance is made available to the applicant under this title such agency has taken or is in the process of taking all practicable steps to avail itself of all assistance for which it is eligible under any program administered by the Commissioner;

(9) provides assurances that such agency will carry out, and comply with, all provisions, terms, and conditions of any plan, program, or activity as described in section 706 or section 708(c) upon which a determination of its eligibility for assistance under this title is based;

(10) sets forth such policies and procedures, and contains such information, as will insure that funds made available to the applicant (A) under this title will be so used (i) as to supplement and, to the extent practicable, increase the level of funds that would, in the absence of such funds, be made available from non-Federal sources for the purposes of the program for which assistance is sought, and for promoting the integration of the schools of the applicant, and for the education of children participating in such program, and (ii) in no case, as to supplant such funds from non-Federal sources, and (B) under any other law of the United States will, in accordance with standards established by regulation, be used in coordination with such programs to the extent consistent with such other law;

(11) in the case of an application for assistance under section 706, provides that the program, project, or activity to be assisted will involve an additional expenditure per pupil to be served, determined in accordance with regulations prescribed by the Assistant Secretary, of sufficient magnitude to provide reasonable assurance that the desired funds under this title will not be dispersed in such a way as to undermine their effectiveness;

(12) provides that (A) to the extent consistent with the number of minority group children in the area to be served who are enrolled in private nonprofit elementary and secondary schools which are operated in a manner free from discrimination on the basis of race, color, or national origin, and which do not serve as alternatives for children seeking to avoid attendance in desegregated or integrated public schools, whose participation would assist in achieving the purpose of this title stated in section 702(b) provides assurance that such agency (after consultation with the appropriate private school officials) has made provision for their participation on an equitable basis, and (B) to the extent consistent with the number of children, teachers, and other educational staff in the school district of such agency enrolled or employed in private nonprofit elementary and secondary schools whose participation would assist in achieving the purpose of this title stated in section 702(b) or, in the case of an application under section 708(c), would assist in meeting the needs described in that subsection. such agency (after consultation with the appropriate private school officials) has made provisions for their participation on an equitable basis;

~~(13) provides that the applicant has not reduced its fiscal effort for the provision of free public education for children in attendance of the schools of such agency for the fiscal year for which assistance is sought under this title to less than that of the second preceding fiscal year, and that the current expenditure per pupil which such agency makes from revenues derived from its local sources for the fiscal year for which assistance under this title will be made available to such agency is not less than such expenditure per pupil which such agency made from such revenues for (A) the fiscal year preceding the fiscal year during which the implementation of a plan described in section 706(a)(1)(A) was commenced, or (B) the third fiscal year preceding the fiscal year for which such assistance will be made available under this title, whichever is later;~~

(13) provides that the applicant has not reduced its fiscal effort per student or the aggregate expenditure for the provision of free public education for children in attendance at the school of such agency for the fiscal year for which assistance is sought under this title to less than that of the second preceding fiscal year;

(14) provides that the appropriate State educational agency has been given reasonable opportunity to offer recommendations to the applicant and to submit comments to the Assistant Secretary;

(15) sets forth effective procedures, including provisions for objective measurement of change in educational achievement and other change to be effected by programs conducted under this title, for the continuing evaluation of programs, projects, or activities under this title, including their effectiveness in achieving clearly stated program goals, their impact on related programs and upon the community served, and their structure and mechanisms for the delivery of services, and including, where appropriate, comparisons with proper control groups composed of persons who have not participated in such programs or projects; and

(16) provides (A) that the applicant will make periodic reports at such time, in such form, and containing such information as the Assistant Secretary may require by regulation, which regulation may require at least—

(i) in the case of reports relating to performance, that the reports be consistent with specific criteria related to the program objectives, and

(ii) that the reports include information relating to educational achievement of children in the schools of the applicant. and (B) that the applicant will keep such records and afford such access thereto as—

(i) will be necessary to assure the correctness of such reports and to verify them, and

(ii) will be necessary to assure the public adequate access to such reports and other written materials.

(b) No application under this section may be approved which is not accompanied by the written comments of a committee established pursuant to clause (2)(B) of subsection (a). The Assistant Secretary shall not approve an application without first affording the committee an opportunity for an informal hearing if the committee requests such a hearing.

(c) In approving applications submitted under this title (except for those submitted under sections 708 (b) and (c) and 711), the Assistant Secretary shall apply only the following criteria:

(1) the need for assistance, taking into account such factors as—

(A) the extent of minority group isolation (including the number of minority group isolated children and the relative concentration of such children) in the school district to be served as compared to other school districts in the State,

(B) the financial need of such school district as compared to other school districts in the State,

(C) the expense and difficulty of effectively carrying out a plan or activity described in section 706 or a program described in section 708(a) in such school district as compared to other school districts in the State, and

(D) the degree to which measurable deficiencies in the quality of public education afforded in such school district exceeded those of other school districts within the State;

(2) the degree to which the plan or activity described in section 706(a), and the program or project to be assisted, or the program described in section 708(a) are likely to effect a decrease in minority group isolation in minority group isolated schools. or in the the case of applications submitted under section 706 (a)(1)(C)(iii) or under section 706(a)(1)(E) the degree to which the plan or activity and the program or project, are likely to prevent minority group isolation from occurring or increasing (in the absence of assistance under this title);

(3) the extent to which the plan or activity described in section 706 constitutes a comprehensive districtwide approach to the elimination of minority groups isolation, to the maximum extent practicable, in the schools of such school district;

(4) the degree to which the program, project, or activity to be assisted affords promise of achieving the purpose of this title stated in section 702(b);

(5) that (except in the case of an application submitted under section 708(a)) the amount necessary to carry out effectively the

project or activity does not exceed the amount available for assistance in the State under this title in relation to the other applications from the State pending before him; and

(6) the degree to which the plan or activity described in section 706 involves to the fullest extent practicable the total educational resources, both public and private, of the community to be served.

(d)(1) The Assistant Secretary shall not give less favorable consideration to the application of a local educational agency (including an agency currently classified as legally desegregated by the Secretary) which has voluntarily adopted a plan qualified for assistance under this title (due only to the voluntary nature of the action) than to the application of a local educational agency which has been legally required to adopt such a plan.

(2) The Assistant Secretary shall not finally disapprove in whole or in part any application for funds submitted by a local educational agency without first notifying the local educational agency of the specific reasons for his disapproval and without affording the agency an appropriate opportunity to modify its application.

(e) The Assistant Secretary may, from time to time, set dates by which applications shall be filed.

(f) In the case of an application by a combination of local educational agencies for jointly carrying out a program or project under this title, at least one such agency shall be a local educational agency described in section 706(a) or section 706 (a) or (c) and any one or more of such agencies joining in such application may be authorized to administer such program or project.

(g) No State shall reduce the amount of State aid with respect to the provision of free public education in any school district of any local educational agency within such State because of assistance made or to be made available to such agency under this title.

EDUCATIONAL TELEVISION

SEC. 711. (a) The sums reserved pursuant to section 704(b)(2)(B) for the purpose of carrying out this section shall be available for grants and contracts in accordance with subsection (b).

(b)(1) The Assistant Secretary shall carry out a program of making grants to, or contracts with, not more than ten public or private nonprofit agencies, institutions, or organizations with the capability of providing expertise in the development of television programing, in sufficient number to assure diversity, to pay the cost of development and production of integrated children's television programs of cognitive and effective educational value.

(2) Television programs developed in whole or in part with assistance provided under this title shall be made reasonably available for transmission, free of charge, and shall not be transmitted under commercial sponsorship.

(3) The Assistant Secretary may approve an application under this section only if he determines that the applicant—

(A) will employ members of minority groups in responsible positions in development, production, and administrative staffs;

(B) will use modern television techniques of research and production; and

(C) has adopted effective procedures for evaluating education and other change achieved by children viewing the program.

PAYMENTS

Sec. 712. (a) Upon his approval of an application for assistance under this title, the Assistant Secretary shall reserve from the applicable apportionment (including any applicable reapportionment) available therefor the amount fixed for such application.

(b) The Assistant Secretary shall pay to the applicant such reserved amount, in advance or by way of reimbursement, and in such installments consistent with established practice, as he may determine.

(c)(1) If a local educational agency in a State is prohibited by law from providing for the participation of children and staff enrolled or employed in private nonprofit elementary and secondary schools as required by paragraph (12) of section 710(a), the Assistant Secretary may waive such requirement with respect to local educational agencies in such State and, upon the approval of an application from a local educational agency within such State, shall arrange for the provision of services to such children enrolled in, or teachers or other educational staff of, any nonprofit private elementary or secondary school located within the school district of such agency if the participation of such children and staff would assist in achieving the purpose of this title stated in section 702(b) or in the case of an application under section 708(c) would assist in meeting the needs described in that subsection. The services to be provided through arrangements made by the Assistant Secretary under this paragraph shall be comparable to the services to be provided by such local educational agency under such application. The Assistant Secretary shall pay the cost of such arrangements from such State's allotment or, in the case of an application under section 708(c), from the funds reserved under section 704(b)(2)(A), or in case of an application under section 708(a), from the sums available to the Assistant Secretary under section 704(b)(2) for the purpose of that subsection.

(2) In determining the amount to be paid pursuant to paragraph (1), the Assistant Secretary shall take into account the number of children and teachers and other educational staff who, except for provisions of State law, might reasonably be expected to participate in the program carried out under this title by such local educational agency.

(3) If the Assistant Secretary determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of children and staff enrolled or employed in private nonprofit elementary and secondary schools as required by paragraph (12) of section 710(a), he shall arrange for the provision of services to children enrolled in, or teachers or other educational staff of, the nonprofit private elementary or secondary school or schools located within the school district of such local educational agency, which services shall, to the maximum extent feasible, be identical with the serv-

less which would have been provided such children or staff had the local educational agency carried out such assurance. The Assistant Secretary shall pay the cost of such services from the grant to such local educational agency and shall have the authority for this purpose of recovering from such agency any funds paid to it under such grant.

(d) After making a grant or contract under this title, the Assistant Secretary shall notify the appropriate State educational agency of the name of the approved applicant and of the amount approved.

EVALUATIONS

Sec. 712. The Assistant Secretary is authorized to reserve not in excess of 1 per centum of the sums appropriated under this title, and reserved pursuant to section 704(b)(2), for any fiscal year for the purposes of this section. From such reservation, the Assistant Secretary is authorized to make grants to, and contracts with, State educational agencies, institutions of higher education and private organizations, institutions, and agencies, including committees established pursuant to section 710(a)(3) for the purpose of evaluating specific programs and projects assisted under this title.

REPORTS

Sec. 714. The Assistant Secretary shall make periodic detailed reports concerning his activities in connection with the program authorized by this title and the program carried out with appropriations under the paragraph headed "Emergency School Assistance" in the Office of Education Appropriations Act, 1971 (Public Law 91-380), and the effectiveness of programs and projects assisted under this title in achieving the purpose of this title stated in section 702(b). Such reports shall contain such information as may be necessary to permit adequate evaluation of the program authorized by this title, and shall include application forms, regulations, program guides, and guidelines used in the administration of the program. The report shall be submitted to the President and to the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives. The first report submitted pursuant to this section shall be submitted no later than ninety days after the enactment of this title. Subsequently reports shall be submitted no less often than two times annually.

JOINT FUNDING

Sec. 715. Pursuant to regulations prescribed by the President, where funds are advanced under this title, and by one or more other Federal agencies for any project or activity funded in whole or in part under this title, any one of such Federal agencies may be designated to act for all in administering the funds advanced. In such cases, any such agency may waive any technical grant or contract requirement (as defined by regulations) which is inconsistent with the similar requirements of the administering agency or which the administering agency does not impose. Nothing in this section shall be construed to authorize (1) the use of any funds appropriated under this title for any purpose not authorized herein, (2) a variance of any reservation or apportionment under section 704 or 705, or (3) waiver of any requirement set forth in sections 706 through 711.

NATIONAL ADVISORY COUNCIL

SEC. 716. (a) There is hereby established a National Advisory Council on Equality of Educational Opportunity, consisting of fifteen members, at least one-half of whom shall be representative of minority groups, appointed by the President, which shall—

(1) advise the Assistant Secretary with respect to the operation of the program authorized by this title, including the preparation of regulations and the development of criteria for the approval of applications;

(2) review the operation of the program (A) with respect to its effectiveness in achieving its purpose as stated in section 702(b), and (B) with respect to the Assistant Secretary's conduct in the administration of the program;

(3) meet not less than four times in the period during which the program is authorized, and submit through the Secretary, to the Congress at least two interim reports, which reports shall include a statement of its activities and of any recommendations it may have with respect to the operation of the program; and

(4) not later than December 1, 1973, submit to the Congress a final report on the operation of the program.

(b) The Assistant Secretary shall submit an estimate in the same manner provided under section 400(c) and part D of the General Education Provisions Act to the Congress for the appropriations necessary for the Council created by subsection (a) to carry out its functions. Subject to section 448(b) of the General Education Provisions Act, such Council shall continue to exist until September 30, 1976,

GENERAL PROVISIONS

SEC. 717. (a) The provisions of parts C and D of the General Education Provisions Act shall apply to the program of Federal assistance authorized under this title as if such program were an applicable program under such General Education Provisions Act, and the Assistant Secretary shall have the authority vested in the Commissioner of Education by such parts with respect to such program.

(b) Section 422 of such General Education Provisions Act is amended by inserting "the Emergency School Aid Act;" after "the International Education Act of 1966;".

ATTORNEY FEES

SEC. 718. Upon the entry of a final order by a court of the United States against a local educational agency, a State (or any agency thereof), or the United States (or any agency thereof), for failure to comply with any provision of this title or for discrimination on the basis of race, color, or national origin in violation of title VI of the Civil Rights Act of 1964, or the fourteenth amendment to the Constitution of the United States as they pertain to elementary and secondary education, the court, in its discretion, upon a finding that the proceedings were necessary to bring about compliance, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

NEIGHBORHOOD SCHOOLS

SEC. 719. Nothing in this title shall be construed as requiring any local educational agency which assigns students to schools on the basis of geographic attendance areas drawn on a racially nondiscriminatory basis to adopt any other method of student assignment.

DEFINITIONS

SEC. 720. Except as otherwise specified, the following definitions shall apply to the terms used in this title:

(1) The term "Assistant Secretary" means the Assistant Secretary of Health, Education, and Welfare for Education.

(2) The term "current expenditure per pupil" for a local educational agency means (1) the expenditures for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay and debt service, or any expenditure made from funds granted under such Federal program of assistance as the Secretary may prescribe, divided by (2) the number of children in average daily attendance to whom such agency provided free public education during the year for which the computation is made.

(3) The term "elementary school" means a day or residential school which provides elementary education, as determined under State law.

(4) The term "equipment" includes machinery, utilities and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the provision of educational services, such as instructional equipment and necessary furniture, printed, published, and audiovisual instructional materials, and other related material.

(5) The term "institution of higher education" means an educational institution in any State which—

(A) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(B) is legally authorized within such State to provide a program of education beyond high school;

(C) provides an educational program for which it awards a bachelor's degree; or provides not less than a two-year program which is acceptable for full credit toward such a degree, or offers a two-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

(D) is a public or other nonprofit institution; and

(E) is accredited by a nationally recognized accrediting agency or association listed by the Commissioner for the purposes of this paragraph.

(6) For the purpose of section 708(a)(2) and section 709(a)(1), the term "integrated school" means a school with an enrollment in which a substantial proportion of the children is from educationally advantaged backgrounds, in which the proportion of minority group children is at least 50 per centum of the proportion of minority group children enrolled in all schools of the local educational agencies within the Standard Metropolitan Statistical Area, and which has a faculty and administrative staff with substantial representation of minority group persons.

(7) For the purpose of section 706(a)(1)(E), the term "integrated school" means a school with (i) an enrollment in which a substantial proportion of the children is from educationally advantaged backgrounds, and in which the Assistant Secretary determines that the number of nonminority group children constitutes that proportion of the enrollment which will achieve stability, in no event more than 65 per centum thereof, and (ii) a faculty which is representative of the minority group and nonminority group population of the larger community in which it is located, or, wherever the Assistant Secretary determines that the local educational agency concerned is attempting to increase the proportions of minority group teachers, supervisors, and administrators in its employ, a faculty which is representative of the minority group and nonminority group faculty employed by the local educational agency.

(8) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or a federally recognized Indian reser-

(9) The term 'magnet school' means a school or education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.

vation, or such combination of school districts, or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, or a combination of local educational agencies; and includes any other public institution or agency having administrative control and direction of a public elementary or secondary school and where responsibility for the control and direction of the activities in such schools which are to be assisted under this title is vested in an agency subordinate to such a board or other authority, the Assistant Secretary may consider such subordinate agency as a local educational agency for purpose of this title.

(10) (A) The term "minority group" refers to (i) persons who are Negro, American Indian, Spanish-surnamed American, Portuguese, Oriental, Alaskan natives, and Hawaiian natives and (ii) (except for the purposes of section 705), as determined by the Assistant Secretary, persons who are from environments in which a dominant language is other than English and who, as a result of language barriers and cultural differences, do not have an equal educational opportunity, and (B) the term "Spanish-surnamed American" includes persons of Mexican, Puerto Rican, Cuban, or Spanish origin or ancestry.

(11) The terms "minority group isolated school" and "minority group isolation" in reference to a school mean a school and condition, respectively, in which minority group children constitute more than 50 per centum of the enrollment of a school.

(12) The term 'neutral site schools' means a school that is located so as to be accessible to substantial numbers of students of different racial backgrounds.

(13) The term "nonprofit" as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(14) The term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(15) The term "Standard Metropolitan Statistical Area" means the area in and around a city of fifty thousand inhabitants or more as defined by the Office of Management and Budget.

(16) The term "State" means one of the fifty States or the District of Columbia, and for purposes of section 708(a), Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall be deemed to be States.

(17) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law for this purpose.

Appendix 2 - A

April, 1977

ESAA REGULATIONS

The attached regulations govern the Emergency School Aid Act, Title VII of the Education Amendments of 1972, as amended.

Office of Education

EMERGENCY SCHOOL AID ACT

Interpretation Regarding Desegregation Plans

1. It is the Commissioner's interpretation that a plan for the "desegregation of minority group segregated children or faculty" under section 706(a)(1)(A), unlike other qualifying plans described in section 706(a), must arise out of a legal obligation to remedy illegal conduct. This reading of the statute is in accord with the distinction, in the above-quoted regulatory definition of "desegregation", between assignments without regard to minority group membership ("desegregation") and assignments to overcome racial imbalance (not "desegregation"). It is, furthermore, consistent with the legislative history of the statute. The House Report on the bill which became the ESAA (H.R. 2266, 92nd Cong.) states as follows regarding categories of eligibility:

> The first category of eligibility includes those districts implementing plans to desegregate or integrate *under mandate from* Federal or State courts or from the Department of Health, Education, and Welfare (under authority of title VI of the Civil Rights Act of 1964). (H.R. Rep. No. 92-576, 92nd Cong., 1st Sess. 12 (1971); italics supplied.)

The report on the Senate counterpart to the same bill (S. 1557, 92nd Cong.) also makes that point in the following language:

> In ascertaining the eligibility of any local educational agency on the basis of its implementation of a plan in compliance with the categories provided in [clauses (i) and (ii) of section 706(a)(1)(A)], the end requirement of the plan and *the origin of the requirement must be considered*. (Sen. Rep. No. 92-61, 92nd Cong., 1st Sess. 35 (1971); italics supplied.)

For these reasons, the Commissioner will consider as a "desegregation" plan under section 706(a)(1)(A) (i) or (ii) only a plan which is premised on a finding of illegal conduct, and which consists of the steps required by the pertinent court, agency, or official to remedy that illegal conduct. In particular, a plan under clause (ii) of that section, relating to title VI of the Civil Rights Act of 1964, will be deemed to include only steps approved as adequate to remedy a violation of that statute. Where an LEA has not violated title VI, it must look to other provisions of section 706(a) as a basis for its eligibility for ESAA assistance. (20 U.S.C. 1605(a)(1)(A))

2. In addition, the Commissioner interprets the phrase "desegregation of minority group segregated children or faculty" in section 706(a)(1)(A) to refer to the reassignment of children or faculty in order to overcome the illegal separation of minority group children or faculty from their nonminority group counterparts in a local educational agency's schools. Under this interpretation the terms "desegregation" and "segregated" in the quoted phrase are given the meanings they are understood to have in ordinary usage, and meanings which are in accord with the regulatory definition of "desegregation" set out at 45 CFR 185.02(k). This interpretation is also consistent with expressions of the Congressional purpose in enacting the statute. The House report on H.R. 2266 states as follows:

> The rationale for the reported bill is best expressed in the President's words: "This Act deals specifically with problems which arise from racial separation, whether deliberate or not, and whether past or present."
>
> (H.R. Rep. No. 92-576, 92d Cong., 1st Sess. 3 (1971); emphasis supplied.)
>
> (Undeliberate separation is treated in this bill, and in the statute as enacted, in provisions dealing with plans affecting "minority group isolation".)

The Senate report on S. 1557 indicates that a similar need was addressed by that bill:

> Whether or not it is deliberate, racial, ethnic, and socio-economic separation in our schools and school systems have serious and often irreparable adverse effects on the education of all children, be they from deprived or from advantaged backgrounds. (Sen. Rep. No. 92-61, 92d Cong., 1st Sess. 6 (1971); emphasis supplied.)

In the light of this legislative history, as well as the language of the statute, the Commissioner will consider as a "desegregation" plan under section 706(a)(1)(A)(i) or (ii) only those plans, or parts of plans, which provide for the reassignment of illegally separated children or faculty to or within the schools of a local educational agency.

(20 U.S.C. 1605(a)(1)(A))

PART 185—EMERGENCY SCHOOL AID

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AUTHORITY: Except as specifically noted below, the provisions of this Part 185 are issued under Title VII of Public Law 92–318, 86 Stat. 354–371, as amended by sections 222, 641–646, and 845 of Public Law 93–380, 88 Stat. 484–613 (20 U.S.C. 1601–1619).

SOURCE: 38 FR 3452, Feb. 6, 1973, unless otherwise noted.

Subpart A—Purpose

§ 185.01 Purpose.

Programs, projects, or activities assisted under the Act shall be for the purpose of achieving one or more of the following objectives:

(a) Meeting the special needs incident to the elimination of minority group segregation and discrimination among students and faculty in elementary and secondary schools;

(b) Eliminating, reducing, or preventing minority group isolation in elementary and secondary schools with substantial proportions of minority group students;

(c) Aiding school children in overcoming the educational disadvantages of minority group isolation.

(Public Law 92-318, section 702(b))

§ 185.02 Definitions.

Except as otherwise specified, the following definitions shall apply to the terms used in this part:

(a) The term "Assistant Secretary" means the Assistant Secretary of Health, Education, and Welfare for Education.

(Public Law 92-318, section 720(1))

(b) [Reserved]

(c) The term "equipment" means machinery, utilities and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the provision of educational services, such as instructional equipment and necessary furniture, printed, published, and audiovisual instructional materials, and other related material.

(Public Law 92-318, section 720(4))

(d) The term "institution of higher education" means an educational institution in any State which:

(1) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(2) Is legally authorized within such State to provide a program of education beyond high school;

(3) Provides an educational program for which it awards a bachelor's degree; or provides not less than a 2-year program which is acceptable for full credit toward such a degree, or offers a 2-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

(4) Is a public or other nonprofit institution; and

(5) Is accredited by a nationally recognized accrediting agency or association listed by the Commissioner of Education for the purposes of this paragraph.

(Public Law 92-318, section 720(5))

(e) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or a federally recognized Indian reservation, or such combination of school districts, or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, or a combination of local educational agencies; and includes any other public institution or agency having administrative control and direction of a public elementary or secondary school and where responsibility for the control and direction of the activities in such schools which are to be assisted under the Act is vested in an agency subordinate to such a board or other authority, the Assistant Secretary may consider such subordinate agency as a local educational agency for purposes of the Act.

(Public Law 92-318, section 720(8))

(f) (1) The term "minority group" refers to (i) persons who are Negro, American Indian, Spanish-surnamed American, Portuguese, Oriental, Alaskan natives, and Hawaiian natives, and (ii) (except for purposes of section 705 of the Act), as determined by the Assistant Secretary, persons who are from environments in which a dominant language is other than English and who, as a result of language barriers and cultural differences, do not have an equal educational opportunity.

(2) The term "Spanish-surnamed American" includes persons of Mexican, Puerto Rican, Cuban, or Spanish origin or ancestry.

(Public Law 92-318, section 720(9))

(g) The terms "minority group isolated school" and "minority group isolation" in reference to a school mean a school and condition, respectively, in which minority group children constitute more than 50 percent of the enrollment of a school.

(Public Law 92-318, section 720(10))

(h) [Reserved]

(i) The term "State" means one of the 50 States or the District of Columbia. For purposes of section 708(a) of the Act, Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall be deemed to be States.

(Public Law 92-318, section 720(14))

(j) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law for such purpose.

(Public Law 92-318, section 720(15))

(k) The term "desegregation" means the assignment of children or faculty to public schools and within such schools without regard to their membership in a minority group, but "desegregation" does not mean the assignment of such persons to or within public schools in order to overcome racial imbalance.

(Public Law 92-318, sections 706(a), 720(9))

(n) The term "the Act" means the Emergency School Aid Act (title VII of Public Law 92-318, as amended by Public Law 93-380).

[38 FR 3452, Feb. 6, 1973, as amended at 38 FR 30661, Nov. 6, 1973; 40 FR 25173, June 12, 1975]

§ 185.03 General provisions.

Assistance provided under this part is subject to applicable provisions contained in Subchapter A of this chapter (relating to fiscal, administrative, property management, and other matters): *Provided, however,* That for the purposes of this part, wherever the term "Commissioner" is used in Subchapter A of this chapter, it shall be read to mean "Assistant Secretary."

(20 U.S.C. 1601 et seq.) [38 FR 30661, Nov. 6, 1973]

§§ 185.04–185.10 [Reserved]

Subpart B—Basic Grants

§ 185.11 Eligibility for assistance.

(a) *Plans pursuant to court or agency order.* (1) A local educational agency may apply for assistance under this subpart if it is implementing a plan which has been undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, and which requires the desegregation of minority group segregated children or faculty in the elementary and secondary schools of such agency, or otherwise requires the elimination or reduction of minority group isolation in such schools. For purposes of this subparagraph, a State agency or official of competent jurisdiction means any State agency or official authorized pursuant to State law to issue such an order.

(2) A local educational agency may apply for assistance under this subpart if it is implementing a plan which has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority group segregated children or faculty in the schools of such agency.

(Public Law 93-318, section 706(a)(1)(A))

(b) *Nonrequired plans*. (1) A local educational agency may apply for assistance under this subpart if, without having been required to do so, it has adopted and is implementing, or will, if assistance is made available to it under this subpart, adopt and implement, a plan for the complete elimination of minority group isolation in all the minority group isolated schools of such agency. The term "complete elimination of minority group isolation," for purposes of this subparagraph, refers to a condition in which no school operated by a local educational agency has or will have (upon implementation of such plan) a minority group enrollment of more than 50 percent, where (prior to the implementation of such plan) minority group children attended one or more schools operated by such agency in which they constituted more than 50 percent of the enrollment.

(2) A local educational agency may apply for assistance under this subpart if it has adopted and is implementing, or will, if assistance is made available to it under this subpart, adopt and implement, a plan to eliminate or reduce minority group isolation in one or more of the minority group isolated schools of such agency, or to reduce the total number of minority group children who are enrolled in minority group isolated schools of such agency.

(i) Elimination of minority group isolation, for purposes of this subparagraph, refers to a change in the enrollment of one or more schools operated by a local educational agency (pursuant to such plan) whereby the proportion of minority group children attending such school or schools is reduced from a proportion greater than 50 percent to a proportion of 50 percent or less.

(ii) Reduction of minority group isolation, for purposes of this subparagraph, refers to the reduction, but not below 50 percent (pursuant to such plan), of the proportion of minority group children attending one or more schools operated by a local educational agency at which school or schools such children constitute more than 50 percent of the enrollment.

(3)(i) A local educational agency may apply for assistance under this subpart if it has adopted and is implementing, or will, if assistance is made available to it under this subpart, adopt and implement, a plan to prevent minority group isolation reasonably likely to occur (in the absence of assistance under this subpart) in any school operated by such agency in which school at least 20 percent, but not more than 50 percent, of the enrollment consists of minority group children.

(ii) For purposes of this subparagraph, minority group isolation will not be deemed reasonably likely to occur (in the absence of assistance under this subpart) in any school unless the applicant demonstrates by credible evidence that minority group children will comprise more than 50 percent of the enrollment of such school during the fiscal year for which such assistance is sought or during the next succeeding fiscal year. Such evidence may include, but is not limited to, enrollment figures for such school during previous fiscal years, enrollment figures of schools from which the enrollment of such school is drawn, demographic data concerning the attendance area served by such school, and school board resolutions or other evidence of final official action likely to affect the enrollment of such school during the fiscal year for which assistance is sought or the next succeeding fiscal year.

(4) A local educational agency may apply for assistance under this subpart if, without having been required to do so, it has adopted and is implementing, or will, if assistance is made available to it under this subpart, adopt and implement, a plan to enroll and educate in the schools of such agency children who would not otherwise be eligible for

enrollment because of nonresidence in the school district of such agency, where such enrollment would make a significant contribution toward reducing minority group isolation in one or more of the school districts to which such plan relates. Such a plan shall not be deemed to make a significant contribution toward reducing minority group isolation unless such plan involves the enrollment by a local educational agency of at least 25 children who would not otherwise be eligible for enrollment because of nonresidence in the school district of such agency. Reducing minority group isolation in one or more school districts, for purposes of this subparagraph, refers to actions undertaken by a local educational agency (pursuant to such plan) which has any of the effects described in subparagraphs (1), (2)(i), or (2)(ii) of this paragraph.

(5) A local educational agency shall be deemed to have adopted and implemented a plan described in this paragraph without having been required to do so, if such plan has not been undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, or has not been required and approved by the Secretary under title VI of the Civil Rights Act of 1964, notwithstanding the fact that such plan may be required by, or such local educational agency may be acting pursuant to, the Constitution and laws of the United States or of any State.

(6) A plan described in subparagraphs (2), (3), or (4) of this paragraph or a project described in paragraph (d) of this section shall not be deemed to meet the requirements of this section where the elimination, reduction, or prevention of minority group isolation accomplished or to be accomplished in schools to which such plan or project relates results in an equal or greater degree of minority group isolation in other schools operated by the local educational agency or agencies to which such plan or project relates.

(Public Law 92-318, sections 702(a)(2), 706(a)(1) (B), (C), and (D), 720(10))

(c) *Implementation of a plan or project.* (1) For purposes of determining eligibility for assistance under this subpart, a local educational agency shall be deemed to be implementing a plan or project if it is operating its school system in accordance with the requirements of such plan or project. The eligibility of a local educational agency for consideration under the Act shall not be affected by the date on which its plan was adopted, or ordered to be adopted, or by the fact that the steps to be taken under the plan have been completed.

(2) Where the eligibility of a local educational agency is based on a plan described in paragraphs (b) and (d) of this section, such agency shall provide assurances and information satisfactory to the Assistant Secretary that such plan has been adopted and implemented, or will be adopted and implemented if assistance is made available to it under this subpart, including:

(i) A copy of a school board resolution or other evidence of final official action adopting and implementing such plan, or agreeing to adopt and implement such plan upon the award of assistance under the Act; and

(ii) In the case of a plan to be implemented upon the award of assistance under the Act, including a plan or project described in paragraphs (b)(3) and (d) of this section, evidence that notice of the contents of such plan or project and of the intent to implement it upon the award of such assistance has been published in a newspaper of general circulation serving the school district of such agency no later than 20 days prior to submission by such agency of an application for such assistance.

(3) An application of a local educational agency for assistance under this subpart shall be accompanied by (i) a complete copy of the plan, including all relevant legal documents, which such agency has adopted and is implementing (or will adopt and implement if such assistance is made available) and upon which such agency bases its application for such assistance; (ii) a summary of the present requirements for such plan; and (iii) a concise statement showing the relationship between such plan and the program, project, or activity for which such assistance is sought.

(Public Law, 92-318, sections 706(a)(1)(B), (C), and (D), 707)

(4) An application of a local educational agency pursuant to a plan to prevent minority group isolation described in paragraph (b)(3) of this section shall, where minority group children constitute more than 50 percent of the enrollment of all the schools operated by such agency, be accompanied by (i) a state-

ment of the enrollment, by race, in any school operated by the applicant in which minority group children constitute more than 70 percent of the enrollment; (ii) a statement of the reasons for such disproportionate minority group enrollment in each such school; and (iii) a statement of instructional and other services to be provided to children enrolled in each such school which will ensure that services to such children are comparable to services to be provided to children enrolled in any school to which the plan described in paragraph (b)(3) of this section relates.

(Public Law, 92–318, sections 706(a)(1), 706(d)(1)(D), 710(a)(9))

(d) *Integrated schools projects.* (1) A local educational agency in the schools of which more than 50 percent of the number of children enrolled are minority group children may apply for assistance under this subpart for the establishment or maintenance of one or more integrated schools: *Provided, however,* That such agency has agreed to apply for an equal amount of assistance under subpart C of this part.

(2) (i) For purposes of this paragraph, an integrated school must have an enrollment in which (*a*) at least 40 percent of the children are from families whose income is higher than the median family income for the school district served by the local educational agency (or the appropriate governmental unit for which such information is available), or (*b*) at least 50 percent of the children currently score at or above the 60th percentile on a recognized standard reading achievement test when compared with students of comparable age or grade level in the schools of such agency as a whole, and in which the number of nonminority group children constitutes that proportion of the enrollment which will achieve stability (in no event more than 65 percent of such enrollment, nor less than the proportion of nonminority children in attendance at all the schools operated by such agency).

(ii) For purposes of this paragraph, an integrated school must have a faculty in which (*a*) the percentage of minority group teachers, supervisors, and administrators, taken together, is within 10 percent of the percentage of minority group members residing in the school district served by the local educational agency (or the appropriate governmental unit for which such information is available), or (*b*) where the percentage of minority group teachers, supervisors, and administrators, taken together in the school district served by the local educational agency, has increased by 10 percent or more over the 3 fiscal years immediately preceding the year or years for which assistance is sought under this paragraph, the percentage of such personnel of such school is within 10 percent of the percentage which exists in the faculty of such agency as a whole.

(Public Law 92–318, sections 706(a), 720(7); [38 FR 3452, Feb. 6, 1973, as amended at 40 FR 25173, June 12, 1975]

§ 185.12 Authorized activities.

(a) The following activities are authorized to be carried out with financial assistance made available under this subpart when such activities would not otherwise be funded and are designed to carry out the purposes described in § 185.01. Such activities shall be directly related to, and necessary to, the implementation of a plan or project described in § 185.11:

(1) Remedial services, beyond those provided under the regular school program conducted by the local educational agency, including student to student tutoring, to meet the special needs of children (including gifted and talented children) in schools which are affected by a plan or project described in § 185.11, when such services are deemed necessary to the success of such plan or project;

(2) The provision of additional professional or other staff members (including staff members specially trained in problems incident to desegregation or the elimination, reduction, or prevention of minority group isolation) and the training and retraining of staff for such schools;

(3) Recruiting, hiring, and training of teacher aides;

(4) Inservice teacher training designed to enhance the success of schools assisted under the Act through contracts with institutions of higher education, or other institutions, agencies, and organizations individually determined by the Assistant Secretary to have special competence for such purpose;

(5) Comprehensive guidance, counseling, and other personal services for children in schools affected by a plan or project described in § 185.11;

(6) The development and use of new curricula and instructional methods, practices, and techniques (and the ac-

quisition of instructional materials relating thereto) to support a program of instruction for children from all racial, ethnic, and economic backgrounds, including instruction in the language and cultural heritage of minority groups;

(7) Educational programs using shared facilities for career education and other specialized activities;

(8) Innovative interracial educational programs or projects involving the joint participation of minority group children and other children attending different schools, including extracurricular activities and cooperative exchanges or other arrangements between schools within the same or different school districts;

(9) Community activities, including public information efforts in support of a plan, program, project, or activity described in the Act;

(10) Administrative and auxiliary services to facilitate the success of the program, project, or activity assisted under this subpart;

(11) Planning programs, projects, or activities assisted under this subpart, the evaluation of such programs, projects, or activities, and dissemination of information with respect to such programs, projects, or activities;

(12) Repair or minor remodeling, or alteration of existing school facilities (including the acquisition, installation, modernization, or replacement of instructional equipment) and the lease or purchase of mobile classroom units or other mobile education facilities.

(Public Law 92-318, sections 702(b), 707(a))

(b) The activities authorized under paragraphs (a) (10) and (11) of this section shall be assisted only as part of, and in conjunction with, a comprehensive educational program, project, or activity designed to carry out the purposes described in § 185.01.

(Public Law 92-318, sections 702(b), 707(a))

(c) Applications by local educational agencies for assistance under this subpart shall include an assurance that in the case of a proposed program or project which includes activities authorized under paragraph (a)(3) of this section, preference in recruiting and hiring teacher aides shall be given to parents of children attending schools assisted under the Act.

(Public Law 92-318, section 707(a)(3))

(d) The term "repair or minor remodeling or alteration," for purposes of paragraph (a)(12) of this section, means the making over or remaking, in a previously complete building or facility, of space used or to be used for activities otherwise authorized by this section, where such making over or remaking is necessary for effective use of such space for such purpose and where no other space is available for such use. The term does not include building construction, structural alterations to buildings, building maintenance, or general or large-scale renovation of existing buildings or facilities. In no case may more than 10 percent of the amount made available to the applicant under this subpart be used for activities authorized under paragraph (a)(12) of this section.

(Public Law 92-318, section 707(a)(12))

§ 185.13 Applications.

An applicant desiring to receive assistance under this subpart for any fiscal year shall submit to the Assistant Secretary an application therefor for that fiscal year, which application shall set forth a program, project, or activity under which, and such policies and procedures as will assure that, the applicant will use the funds received under this subpart only for the activities set forth in § 185.12. Such application, together with all correspondence and other written materials relating thereto, shall be made readily available to the public by the applicant and by the Assistant Secretary. Such application shall contain the following:

(a) *Additional cost.* An assurance that funds paid to the applicant under such application will be used solely to pay the additional cost to the applicant in carrying out the program, project, or activity described in the application, and that the funds requested in the application represent the additional cost to the applicant arising out of activities authorized under the Act, above that of the activities normally carried out by such applicant.

(1) In determining whether a cost of an activity for which assistance is sought under the Act is an additional cost, for purposes of this paragraph, the Assistant Secretary shall take into account only the actual, incremental cost of such activity. Incremental costs, for purposes of this paragraph, are those costs which can be identified specifically with a particular cost objective related solely to the activity to be assisted, and are not those costs incurred for a common or

joint purpose benefiting any cost objective or objectives not so related to such activity.

(2) The cost of an activity which was supported by an applicant with funds from other sources during the fiscal year preceding the fiscal year or years for which assistance is sought under the Act, and for which funds available from such other sources for the fiscal year or years for which such assistance is sought have not been reduced except by the action of such applicant, shall not be considered as an additional cost to such applicant.

(Public Law 92-318, sections 706(c), 710(a)(4))

(b) *Administration by applicant.* An assurance that the program for which assistance is sought will be administered by the applicant, and that any funds received by the applicant under the Act, and any property derived therefrom, will remain under the administration and control of the applicant;

(Public Law 92-318, section 710(a)(5))

(c) *Unavailability of non-Federal funds.* An assurance that the applicant is not reasonably able to provide, out of non-Federal sources, the assistance for which application is made;

(Public Law 92-318, section 710(a)(6))

(d) *Evaluation.* An assurance that the applicant will cooperate with the Assistant Secretary or any State educational agency, institution of higher education, or private organization, institution, or agency, including a committee established pursuant to § 185.41(a), in the evaluation by the Assistant Secretary or such agencies, institutions, or organizations of specific plans, programs, projects, or activities assisted under the Act. Such evaluations may require the establishment or maintenance of control groups or schools, and may include a reasonable number of interviews with, or questionnaires, achievement tests, and other evaluation instruments administered to, administrators, principals, teachers, students, program or project staff, and community members at reasonable times and places. Such evaluations may also require the applicant to provide reasonable assistance in the organization and administration of the evaluation, including recordkeeping. Where determined to be appropriate by the Assistant Secretary, participation by the applicant in an evaluation conducted pursuant to this paragraph shall be considered fulfillment of the requirements for local evaluation under paragraph (k)(1) of this section.

(Public Law 92-318, sections 710(a)(15), 712)

(e) *Compliance with plan.* An assurance that the applicant will carry out, and comply with, all provisions, terms, and conditions of any plan, program, project, or activity upon which a determination of its eligibility for assistance under the Act is based;

(Public Law 92-318, section 710(a)(9))

(f) *Religious activity.* An assurance that Federal funds made available under the Act will not be used in connection with any sectarian activity or religious worship, or in connection with any part of a school or department of Divinity. The term "school or department of Divinity" means an institution or a department or branch of an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects.

(g) *Supplementing of non-Federal funds.* An assurance that funds made available to the applicant under the Act will be so used (1) as to supplement and, to the extent practicable, increase the level of funds that would, in the absence of funds under the Act, be available from non-Federal sources for the purposes of the program for which assistance is sought, and for promoting the integration of the schools of the applicant, and for the education of children participating in the proposed program, project, or activity, and (2) in no case, as to supplant such funds from non-Federal sources.

(Public Law 92-318, sec. 710(a)(10)(A))

(h) *Coordination.* An assurance that funds made available under any other law of the United States will be used in coordination with funds made available under the Act, to the extent consistent with such other law; and a statement of procedures employed by the applicant to coordinate its proposed program, project, or activity under the Act with projects conducted pursuant to Titles I, III, and VII of the Elementary and Secondary Education Act of 1965 and Title IV of the Civil Rights Act of 1964. Coordination, with respect to the assurance required by this paragraph, includes the following policies or procedures:

(1) Taking all practicable steps to obtain Federal assistance under any other law of the United States for which the applicant is eligible;

(2) Applying funds made available under the Act in such manner as not to duplicate or counteract the effects of funds made available under such other laws; and

(3) When practicable, applying funds made available under the Act so as to increase the impact or effectiveness of funds made available under such other laws, or to provide the same or similar benefits to children in need of, but not able to participate in, programs conducted under such other laws.

(Public Law 92-318, secs. 710(a)(8), 710(a)(10)(B); Senate Rept. No. 92-798, p. 217)

(i) *Maintenance of effort.* (1) An assurance (i) that the applicant has not reduced its fiscal effort for the provision of free public education for children in attendance at its schools for the fiscal year or years for which assistance is sought under the Act to less than that of the second preceding fiscal year, and (ii) that the current expenditure per pupil which such agency makes from revenues derived from its local sources for the fiscal year or years for which assistance under the Act will be made available to the applicant is not less than such expenditure per pupil which such agency made from such revenues for (*a*) the fiscal year preceding the fiscal year during which the agency began implementation of the plan with respect to which assistance is sought under the Act, or (*b*) the third fiscal year preceding the first fiscal year for which assistance will be made available under the Act, whichever is later; and (2) a statement of total local revenues available for expenditure and the tax rate applied by the responsible governmental unit for the fiscal year for which assistance is sought and for the second preceding fiscal year, and of the current expenditure per pupil from revenues derived from local sources for (i) the first fiscal year for which assistance is sought, (ii) the fiscal year preceding the fiscal year during which the agency began implementation of its plan, and (iii) the third fiscal year preceding the first fiscal year for which assistance is sought. The term "current expenditure per pupil," for purposes of this paragraph, means the expenditure for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities (but not including expenditures for community services, capital outlay and debt service, or any expenditure made from funds granted under any Federal program of assistance), divided by the number of children in average daily attendance to whom the agency provided free public education during the year for which the computation is made. This paragraph shall not be construed to disqualify an agency whose fiscal effort or current expenditure per pupil has been reduced solely as part of a comprehensive State plan to reorganize public educational financing (without regard to funds made available or to be made available under the Act), where the effect of such plan is to maintain or increase the combined State and local fiscal effort or expenditure per pupil.

(Public Law 92-318, sections 710(a)(12), 710(a), 720(2))

(j) *State agency review.* An assurance that the appropriate State educational agency has been given at least 15 days to offer recommendations to the applicant; and a statement indicating the State official or agency to whom the proposed program, project, or activity has been submitted for such recommendations, and the date of such submission. No application for assistance shall be approved less than 10 days after a copy of said application has been submitted by the Assistant Secretary to the appropriate State educational agency for comment, unless the Assistant Secretary has received comments from such agency upon such application prior to expiration of the 10-day period.

(Public Law 92-318, section 710(a)(14))

(k) *Reports and information.* An assurance that the applicant will submit such reports containing such information in such form as the Secretary or the Assistant Secretary may require in order to carry out their functions under the Act, and that the applicant will keep such records and afford such access thereto as will be necessary to assure the correctness of such reports and to verify them; and a description of provisions for the evaluation of the activities for which assistance is sought.

(1) In the case of reports relating to performance and evaluation of the approved program, project, or activity, such reports shall provide objective measurement of the change in educational achievement and other changes effected with assistance provided under the Act, including:

(i) Specific evidence of progress toward achievement of the goals stated in the applicant's project application;

(ii) Specific evidence as to the impact of assistance provided under the Act upon related programs and upon the community served by the applicant; and

(iii) Specific information, such as averages of standardized achievement test scores, relating to educational achievement of children in the schools of the applicant, and to the effect of assistance provided under the Act upon the educational performance of such children.

(2) Copies of the reports and records referred to in subparagraph (1) of this paragraph shall be made available by the applicant to interested members of the public at no charge or at a charge not to exceed the cost to the applicant of making such copies available, and such reports and records shall be available for inspection by interested members of the public at reasonable times and places.

(3) Reports and records required to be kept and to be made available to the Assistant Secretary under this paragraph shall include information as to the matters set out in §§ 185.43 and 185.44, including but not limited to:

(i) Records relating to transfers of property or services as required under §§ 185.43(a) and 185.44(c);

(ii) Records relating to recruitment, hiring, promotion, payment, demotion, dismissal, and assignment of instructional, administrative, or other personnel for the periods covered by §§ 185.43(b) and 185.44(d);

(iii) Records relating to assignment of children to or within classes and to any ability grouping practiced by the applicant, as such grouping is defined in § 185.43(c); and

(iv) Records relating to the practices or procedures referred to in § 185.43(d), including specific information as to disciplinary sanctions (corporal punishment, suspension, expulsion, and the like) imposed upon minority and nonminority group children in every school operated by the applicant.

(Public Law 92-318, sections 706(d), 710(a)(15), 710(a)(16); 20 U.S.C. 1232c)

(l) *Compliance with eligibility requirements.* (1)(i) An assurance that the applicant has not engaged prior to the date of its application for assistance under the Act, and will not engage subsequent to such date, in any transfer of property or services to a discriminatory nonpublic school (including such schools or school systems to whose students, faculty, or other educational staff services will be provided under § 185.42) in violation of § 185.43(a) (or that if such a violation has occurred, application for a waiver of ineligibility has been made to the Secretary); and (ii) a list of names and addresses of all nonpublic schools or school systems (or any person or organization controlling, operating, or intending to establish such a school or school system) to which the applicant has transferred (directly or indirectly, by gift, lease, loan, sale, or any other means) any real or personal property or made available any services since June 23, 1972.

(2)(i) An assurance that the applicant has not had or maintained in effect prior to the date of its application for assistance under the Act, and will not have or maintain in effect subsequent to such date, any practice, policy, or procedure with respect to minority group personnel in violation of § 185.43(b) (or that if such a violation has occurred, application for a waiver of ineligibility has been made to the Secretary); and (ii) a statement of the number of principals, full-time classroom teachers, and athletics head coaches, by race, for the academic year immediately preceding (*a*) the year in which the applicant first implemented any portion of a plan for desegregation or for elimination or reduction of minority group isolation in its schools pursuant to an order of a Federal or State court or administrative agency, or (*b*) the year in which the applicant first implemented any portion of a plan or project described in § 185.11, whichever is earlier, and of the number of principals, full-time classroom teachers, and athletics head coaches, by race, as of the date of its application;

(3)(i) An assurance that the applicant has not had or maintained in effect prior to the date of its application for assistance under the Act, and will not have or maintain in effect subsequent to such date, any procedure for assignment of children to classes in violation of § 185.43(c) (or that if such a violation has occurred, application for a waiver of ineligibility has been made to the Secretary); and (ii) a statement of the total number of children assigned by the applicant as of the date of the application to all-minority or all-nonminority classes for more than 25 percent of the school day classroom periods, with an educational justification or explanation for any such assignments;

(4) (i) An assurance that the applicant has not had or maintained in effect prior to the date of its application for assistance under the Act, and will not have or maintain in effect subsequent to such date, any practice, policy, or procedure which results in discrimination against children in violation of § 185.43(d) (or that if such violation has occurred, application for a waiver of ineligibility has been made to the Secretary); (ii) a statement of the enrollment, by race, in classes maintained by the applicant as of the date of its application for the mentally retarded or for children with other learning disabilities; (iii) a statement of the number and percentage of students enrolled in the first grade of the applicant's schools as of the date of its application whose primary home language is other than English; (iv) if the number of children listed pursuant to subdivision (iii) of this subparagraph is greater than 100, or the percentage listed pursuant thereto is greater than 5 percent, a statement of the averages of the most recent standardized reading achievement scores, by race or ethnic group, for students enrolled in the third and sixth grades of the applicant's schools (or the nearest grades for which such scores are available) as of the date of its application; and

(5) An assurance that the applicant will carry out and comply with the terms of the agreement upon which its waiver of ineligibility (if any) by the Secretary is based.

(Public Law 92-318, section 706(d))

(m) *Compliance with applicable laws.* An assurance that the applicant is familiar with, and will comply with the provisions of, all applicable regulations, grant or contract terms, conditions and requirements; and

(n) *Transportation.* An assurance that no funds made available under the Act will be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system or to carry out a plan for racial desegregation of any school or school system.

(Public Law 93-380, section 252)

[38 FR 3452, Feb. 6, 1973, as amended at 40 FR 25174, June 12, 1975]

§ 185.14 Criteria for assistance.

(a) *Objective criteria.* In approving applications for assistance by local educational agencies under this subpart, the Assistant Secretary shall apply the following objective criteria (80 points):

(1) The need for such assistance, as indicated by the number and percentage of minority group children enrolled in the schools of such agency (or, in the case of an application submitted pursuant to a plan described in § 185.11(b)(4), the number and percentage of such children enrolled in the schools of local educational agencies to which such plan relates) for the fiscal year or years for which assistance is sought, or the most recent fiscal year for which such figures are available, as compared to other school districts in the State (30 points); and

(2)(i) Except for applications submitted pursuant to a plan or project described in § 185.11(b)(3) or §185.11(d), the effective net reduction in minority group isolation (in terms of the number and percentage of children affected), in the schools operated by such agency (or, in the case of an application submitted pursuant to a plan described in § 185.11 (b)(4), in the schools operated by local educational agencies to which such plan relates) accomplished or to be accomplished by the implementation of a plan described in § 185.11 and the program, project, or activity to be assisted (50 points). The term "effective net reduction in minority group isolation," for purposes of this division, means the weighted net change effected or to be effected by such plan in the number of minority group children enrolled in minority group isolated schools operated by such agency or agencies, and the weighted net total of minority group children placed or to be placed as a result of such plan in a school in which the proportion of such children has been reduced (but remains greater than 50 percent). Minority group children placed as a result of such plan in schools in which the proportion of such children has been increased (and is greater than 50 percent) shall be counted against the reduction credited to such agency under this division. Such effective net reduction shall be computed between the fiscal year (or relevant portion thereof) immediately preceding implementation of such plan and the first fiscal year (or relevant portion thereof) for which assistance is sought under the Act, or the most recent fiscal year for which such figures are available.

(ii) In the case of an application submitted pursuant to a plan or project described in § 185.11(b)(3) or § 185.11(d), the effective net prevention of minority group isolation (in terms of the number and percentage of children affected) in the schools operated by such agency likely to be accomplished by the implementation of such plan or project and the program, project, or activity to be assisted (50 points). The term "effective net prevention of minority group isolation," for purposes of this division, means the weighted net change likely to be effected by such plan or project in the number of minority group children who would be enrolled in minority group isolated schools operated by such agency during the fiscal year for which assistance is sought (or, in the case of a plan to prevent minority group isolation reasonably likely to occur during the fiscal year immediately succeeding the fiscal year for which assistance is sought, during such succeeding fiscal year) and, in the case of applications submitted pursuant to a project described in § 185.11(d), the weighted net change likely to be effected by such project during the fiscal year for which assistance is sought in the number of minority group children who would be enrolled in schools in which the proportion of such children would be prevented from increasing (but would remain greater than 50 percent). Minority group children to be placed as a result of a plan or project described in § 185.11(b)(3) or § 185.11(d) in schools in which the proportion of such children would be increased (and would be greater than 50 percent) shall be counted against the prevention credited to such agency under this division. Such effective net prevention shall be computed on the basis of a comparison between enrollments likely to occur in the relevant fiscal year or years in the absence of a plan or project described in § 185.11(b)(3) or § 185.11(d), and the enrollments likely to occur during such fiscal year or years as a result of the implementation of such plan or project.

(Public Law 92-318, sections 710(c) (1), (2) and (3); Public Law 93-380, section 643)

(b) *Educational and programmatic criteria.* The Assistant Secretary shall determine the educational and programmatic merits of applications for assistance by local educational agencies under this subpart on the basis of the following criteria (45 points):

(1) *Needs assessment (6 points).* (i) The magnitude of needs assessed by the applicant in relation to desegregation, elimination, reduction, or prevention of minority group isolation, or the educational disadvantages of such isolation, and (ii) the degree to which the applicant has demonstrated, by standardized achievement test data or other objective evidence, the existence of such needs.

(2) *Statement of objectives (6 points).* (i) The degree to which the applicant sets out specific measurable objectives for its program, project, or activity, in relation to the needs identified; and

(ii) The degree to which (*a*) the program, project, or activity to be assisted promises realistically to address the needs identified in the application, and (*b*) such program, project, or activity involves to the fullest extent practicable the total educational resources, both public and private, of the community to be served.

(3) *Activities (21 points)*—(i) *Project design (11 points).* The extent to which (*a*) the proposed services are concentrated upon a group of participants which is sufficiently limited and specific to give promise of measurable growth for each participant; (*b*) such services are sufficiently intensive to give promise of such growth; (*c*) the proposed program, project, or activity emphasizes individualized instruction and services; (*d*) students to be served are afforded an opportunity to contribute to, and suggest changes in, the proposed program, project, or activity; and (*e*) the proposed program, project, or activity promotes interracial and intercultural understanding.

(ii) *Staffing (3 points).* The extent to which the application (*a*) sets out an adequate staffing plan which includes provisions for making maximum use of present staff capabilities, and (*b*) provides for continuing training of staff in order to increase the effectiveness of the proposed program, project, or activity.

(iii) *Delivery of services (3 points)*. The extent to which the proposed program or project sets out a plan for meeting the logistical requirements of the proposed activities, including a description of adequate and conveniently available facilities and equipment; and

(iv) *Parent and community involvement (4 points)*. The extent to which the application (*a*) delineates specific opportunities for community and advisory committee participation in the development and implementation of the proposed program, project, or activity in addition to those required by § 185.41, and (*b*) includes evidence that such participation has been encouraged and has in fact occurred.

(4) *Resource management (6 points)*. The extent to which the application contains evidence that (i) the amount of funds requested is of sufficient magnitude in relation to the number of participants to be served to give substantial promise of achieving the stated objectives; (ii) the costs of project components are reasonable in relation to the expected benefits; (iii) the proposed project will be coordinated with existing efforts; and (iv) all possible efforts have been made to minimize the amount of funds requested for purchase of equipment necessary for implementation of the proposed program, project, or activity.

(5) *Evaluation (6 points)*. The extent to which the application sets out a format for objective, quantifiable measurement of the success of the proposed program, project, or activity in achieving the stated objectives, including (i) a timetable for compilation of data for evaluation and a method of reviewing the program, project, or activity in the light of such data; (ii) a description of instruments to be used for evaluation of the proposed program, project, or activity (and of the method for validating such instruments where necessary), or a description of the procedure to be employed in selecting such instruments; and (iii) provisions for comparison of evaluation results with norms, control group performance, results of other programs, or other external standards.

(6) In making the determinations required under this paragraph, the Assistant Secretary is authorized to purchase or utilize the services, recommendations, and advice of experts in the areas of education and human relations from the Department, other Federal agencies, State or local governmental units, or the private sector.

(Public Law 92-318, sections 702(b), 710(a)(11), 710(c)(1), (2), (4), and (6))

(c) *Funding criteria and procedures*. (1) In determining amounts to be awarded to applicants for assistance under this subpart, the Assistant Secretary shall consider:

(i) The additional cost to such applicants (as such cost is defined in § 185.13(a) of effectively carrying out its proposed program, project, or activity; and

(ii) The amount of funds available for assistance under this subpart within the State in relation to other applications from the State pending before the Assistant Secretary.

(2) An application for assistance under this subpart will be considered to set forth a program, project, or activity of such insufficient promise for achieving the purpose of the Act that its approval is not warranted, and shall not be approved for funding, if such application has been awarded:

(i) fewer than 40 points on the basis of the criteria in paragraphs (a) and (b) of this section; or

(ii) fewer than 28 points on the basis of the criteria in paragraph (b) of this section.

(3) An application determined on the basis of the standards in paragraph (c)(2) of this section to be unapprovable will be returned to the applicant. The Assistant Secretary shall notify the applicant of the specific reasons for such determination, and shall afford the applicant an appropriate opportunity to modify and resubmit its application.

(4) Except as provided in paragraph (c)(5) of this section, the Assistant Secretary shall award funds to applicants for assistance under this subpart from a State (whose applications meet the requirements of the Act and are approvable on the basis of the standards in paragraph (c)(2) of this section) in the order of their ranking on the basis of the criteria set out in paragraphs (a) and (b) of this section until the funds apportioned to the State for the purpose of this subpart have been exhausted.

(5)(i) Not less than one-third of the funds apportioned to a State for the purpose of this subpart shall be reserved until applicants whose initial applications were determined to be unapprovable on the basis of the standards in paragraph (c)(2) of this section have been afforded an appropriate opportunity to modify and resubmit their applications. From the funds not so reserved, the Assistant Secretary shall award funds to applicants whose applications are approvable in the order of the ranking of their initial applications (on the basis of the criteria set out in paragraphs (a) and (b) of this section) until unreserved funds are insufficient to support the next ranking approvable application at the level determined by the Assistant Secretary to be necessary to carry out effectively the proposed program, project or activity.

(ii) Where unreserved funds are insufficient to support the next ranking approvable application at the level determined by the Assistant Secretary to be necessary to carry out effectively the proposed program, project or activity, the Assistant Secretary shall notify the applicant of the specific reasons for its ranking, and shall afford the applicant an appropriate opportunity to modify and resubmit its application to compete for reserved funds. If such an applicant chooses to modify and resubmit its application, its ranking shall be determined on the basis of the criteria set out in paragraphs (a) and (b) of this section as applied to its resubmitted application.

(Public Law 92-318, sections 702; 705(a)(1), (b)(3); 706(a); 710(c), (d)(2).)

§§ 185.15–185.20 [Reserved]

Subpart C—Pilot Projects

§ 185.21 Eligibility for assistance.

(a) A local educational agency which is eligible for assistance under § 185.11 may apply for assistance by grant or contract for funds reserved pursuant to § 185.95(c), for unusually promising and innovative pilot programs or projects specially designed to overcome the adverse effects of minority group isolation by improving the academic achievement of children in one or more minority group isolated schools, if the number of minority group children enrolled in the schools of such agency for the fiscal year preceding the fiscal year for which assistance is to be provided (1) is at least

15,000, or (2) constitutes more than 50 percent of the total number of children enrolled in such schools.

(Public Law 92-318, sections 705(a)(2), 706(b); Public Law 93-380, section 643(a) and (b))

(b)(1) A local educational agency shall be considered eligible for assistance under this subpart if it is implementing a plan described in § 185.11(a) or is implementing or will (if assistance is made available to it under the Act) adopt and implement a plan described in § 185.11(b), regardless of whether it applies for or receives assistance under subpart B of this part.

(2) In the case of applications submitted pursuant to a project described in § 185.11(d), a local educational agency shall be considered eligible for assistance under this subpart if it will (if such assistance is made available) establish or maintain one or more integrated schools as defined in § 185.11(d)(2), regardless of whether such agency receives assistance under subpart B of this part.

(Public Law 92-318, section 706(b); Public Law 93-380, section 643)

[40 FR 25174, June 12, 1975]

§ 185.22 Authorized activities.

(a) Assistance under this subpart shall be made available to carry out the authorized activities described in § 185.12 with respect to the children or schools to be served by the proposed program, project, or activity.

(Public Law 92-318, sections 706(b), 707(b))

(b) Activities to be assisted under this subpart shall be directed toward improving the academic achievement of children in minority group isolated schools, particularly in the basic areas of reading and mathematics. In general, such activities should bear directly upon classroom performance, through remedial services; the provision of additional, specially trained professional or other staff members; recruiting, hiring, and training of teacher aides; and development and use of new curricula and instructional methods, practices, and techniques (and acquisition of related instructional materials); however, the Assistant Secretary shall consider other, indirect approaches which offer unusual promise in overcoming the adverse effects of minority group isolation.

(Public Law 92-318, sections 706(b), 707(b))

(c) The provisions of § 185.12 (b), (c), and (d) shall apply to assistance made available under this subpart.

(Public Law 92-318, sections 706(b), 707)

§ 185.23 Applications.

Applications for assistance under this subpart shall comply with the provisions of § 185.13.

(Public Law 92-318, section 710(a))

§ 185.24 Criteria for assistance.

(a) In approving applications for assistance under this subpart, the Assistant Secretary shall apply the objective criteria set out in § 185.14(a), except that a maximum of 25 points shall be awarded to any applicant under § 185.14(a)(2).

(Public Law 92-318, sections 706(b), 710(c)(1), (2), and (3))

(b) The Assistant Secretary shall determine the educational and programmatic merits of applications for assistance under this subpart on the basis of the criteria set out in § 185.14(b), except that the Assistant Secretary shall also determine the replicability of the proposed program, project, or activity on the basis of the following considerations (8 points):

(1) The extent to which the application demonstrates special thoroughness and specificity in the areas of needs assessment and evaluation design;

(2) The extent to which the applicant proposes (i) to extend some or all of the activities to be carried out under the program, project, or activity to be assisted to schools operated by the local educational agency which are not included in such program, project, or activity; and (ii) to provide opportunities for interested parties to observe the program, project, or activity, inspect project materials, equipment, and facilities, and interview staff members of such agency responsible for design and implementation of the program, project, or activity;

(3) The extent to which the application provides for effective collection and organization of information on the educational results of the proposed program, project, or activity; and

(4) The extent (i) to which the proposed program, project, or activity includes activities of modest to average cost, and (ii) to which secondary operating costs and one-time developmental costs are clearly and separately identified in the application, regardless of

whether assistance is requested to cover such costs.

(Public Law 92-318, sections 706(b), 710(c)(1), 710(c)(4).)

(c) *Funding criteria and procedures.* The provisions of § 185.14(c) shall apply to awards of assistance under this subpart, except that:

(1) References in § 185.14(c) to "this subpart" shall be understood to refer to Subpart C—Pilot Projects;

(2) References in § 185.14(c) to "this section" shall be understood to refer to § 185.24; and

(3) The minimum points referred to in paragraph (c)(2) of § 185.14 shall, for the purpose of this subpart, be 45 on the basis of the criteria in paragraphs (a) and (b) of this section and 33 on the basis of the criteria in paragraph (b).

(Public Law 92-318, sections 702; 705(a)(2), (b)(3); 706(b); 710(c), (d)(2).)

§§ 185.25–185.30 [Reserved]

Subpart D—Metropolitan Area Projects

Source: 39 FR 10094, Apr. 24, 1973, unless otherwise noted.

§ 185.31 Eligibility for assistance.

(a) *Interdistrict transfers.* (1) A local educational agency (i) which is located within a Standard Metropolitan Statistical Area, or which serves a school district adjacent to a school district which is located wholly within such an area, and (ii) whose total student enrollment includes a percentage of minority group members which is smaller than the percentage of minority group members enrolled as students in all schools of the local educational agencies within such an area, may apply for assistance, by grant or contract, from funds reserved pursuant to § 185.95(b)(1), for the purpose of a joint arrangement with a cooperating local educational agency located within the same Standard Metropolitan Statistical Area (whose student enrollment includes a percentage of minority group members which is greater than the percentage of minority group members enrolled as students in all schools of the local educational agencies within such area) for the establishment or maintenance of one or more integrated schools.

(2) For purposes of this paragraph, an integrated school must have an enrollment in which (i) at least 40 per centum of the children are from families whose income is higher than the median family income for the school district served by the applicant, the appropriate Standard Metropolitan Statistical Area (or the appropriate governmental unit for which such information is available), or the Nation, whichever is lowest, or (ii) at least 50 per centum of the children currently score at or above the 60th percentile on a recognized standard reading achievement test, when compared either with students of a comparable age or grade level in the schools of the applicant or the appropriate Standard Metropolitan Statistical Area or with national norms, whichever is lowest, and (iii) the proportion of minority group children is at least 50 per centum of the proportion of minority group children enrolled in all schools of the local educational agencies within the Standard Metropolitan Statistical Area. In no event shall the minority group enrollment in any such school exceed 50 per centum. For purposes of this paragraph, such a school must have a faculty in which the percentage of minority group teachers, supervisors, and administrators, taken together, is equal to or greater than the percentage of minority group members in the student body of such school.

(3) A joint arrangement assisted under this subpart shall consist of the enrollment in schools of the applicant of students residing in the district served by, or attending the schools of, the cooperating local educational agency. No such arrangement shall result in an increase in the degree of minority group isolation in any school operated by any local educational agency. Students so enrolled by the applicant shall be selected from those who, in the absence of such enrollment, would be enrolled in, or assigned to, a minority group isolated school, and shall be representative of the larger group from which they are selected.

(20 U.S.C. 1603(b), 1605(a)(2), 1608(a)(1), 1619(6); Senate Rept. No. 92-61, p. 16)

(b) *Area-wide plans.* (1) Two or more local educational agencies located within a Standard Metropolitan Statistical Area may apply for a grant from funds reserved pursuant to § 185.95(b)(1) for the joint development of a plan to reduce and eliminate minority group isolation, to the maximum extent possible, in the public elementary and secondary schools in such area. Such a plan shall, at a minimum, provide that by a certain date (no later than July 1, 1983), the percentage of minority group children enrolled in each public elementary and secondary school in such area shall be at least 50 percent of the percentage of such children enrolled in all such schools in such area, and shall specify in detail the means by which such objective is to be achieved.

(2) No grant shall be made under this paragraph unless (i) two-thirds or more

of the local educational agencies in a Standard Metropolitan Statistical Area have approved the application; (ii) the number of students in the schools of such agencies which have approved such application constitutes two-thirds or more of the students in all schools of the local educational agencies in such area; and (iii) at least one of the schools operated by a local educational agency in such area is a minority group isolated school.

(20 U.S.C. 1603(b), 1608(a)(2))

(c) [Reserved]

(d) *Agreements and approvals.* Applicants for assistance under this subpart shall provide assurances and information satisfactory to the Assistant Secretary establishing that a joint arrangement described in paragraph (a) of this section, the joint development of a plan described in paragraph (b) of this section, the required approvals of an application submitted pursuant to paragraph (b) of this section, or any other arrangement, agreement, or approval required pursuant to this subpart has been negotiated by or obtained from the appropriate local educational agency or agencies. Such required assurances or information may include:

(1) Signatures on applications for assistance under this subpart by authorized officials of such applicants or agencies;

(2) Copies of school board resolutions or other evidence of final official action approving and agreeing to carry out an arrangement or agreement or indicating an approval required pursuant to this subpart; and

(3) In the case of interdistrict transfers to be undertaken upon the award of assistance pursuant to paragraph (a) of this section, evidence that notice of the intent to engage in such a transfer program upon the award of such assistance has been published in a newspaper of general circulation serving all affected school districts no later than 20 days prior to submission of an application for such assistance.

(20 U.S.C. 1608)

[38 FR 3452, Feb. 6, 1973, as amended at 25175, June 12, 1975]

§ 185.32 Authorized activities.

(a) *Interdistrict transfers.* Assistance made available pursuant to § 185.31(a) is authorized to be used for any of the authorized activities described in § 185.12(a) (1) through (12) when such activities would not otherwise be funded and are designed to carry out the purposes described in § 185.01. Such activities shall be directly related to, and necessary to, the establishment or maintenance of one or more integrated schools as described in § 185.31(a). Assistance made available pursuant to § 185.31(a) is also authorized to be used to pay the net cost, if any, to the applicant of the enrollment and education in such schools of students who are not residents of the school district served by the applicant and who, prior to the award of assistance pursuant to § 185.31(a), did not attend a school operated by the applicant.

(20 U.S.C. 1608(a)(1))

(b) *Area-wide plans.* Assistance made available pursuant to § 185.31(b) is authorized to be used for any activities reasonably necessary to the joint development of a plan described in § 185.31(b), when such activities would not otherwise be funded and are designed to carry out the purposes described in § 185.01. No funds made available pursuant to § 185.31(b) shall be used for any costs related to construction or to any repair or remodeling.

(20 U.S.C. 1608(a)(2))

[38 FR 3452, Feb. 6, 1973, as amended at 40 FR 25175, June 12, 1975]

§ 185.33 Applications.

An applicant desiring to receive assistance under this subpart for any fiscal year shall submit to the Assistant Secretary an application therefor for that fiscal year, which application shall set forth a program, project, or activity under which, and such policies and procedures as will assure that, the applicant will use the funds received under this subpart only for the activities set forth in § 185.32. Such application, together with all correspondence and other written materials relating thereto, shall be made readily available to the public by the applicant and the Assistant Secretary. Such application shall comply with the requirements of § 185.13 (a) through (n), except that applications submitted pursuant to this subpart need not comply with § 185.13(l)(2), and applications for assistance under § 185.31(b) need not comply with § 185.13(h) (with respect to the statement of procedures described therein).

(20 U.S.C. 1608(a)(2); Public Law 93-380, section 222)

[40 FR 25175, June 12, 1975]

§ 185.34 Criteria for assistance (interdistrict transfers).

(a) *Statistical criteria.* In approving applications for assistance pursuant to § 185.31(a), the Assistant Secretary shall apply the following statistical criteria (75 points):

(1) The need for such assistance, as indicated by the number and percentage of minority group children enrolled in the schools of the local educational agency cooperating with the applicant for the fiscal year or years for which assistance is sought (30 points); and

(2) The net reduction in minority group isolation, in terms of the number of children affected, accomplished or to be accomplished by the interdistrict transfers to be assisted pursuant to § 185.31(a) (45 points). The term "net reduction in minority group isolation," for purposes of this subparagraph, means the number of minority group children, weighted by their relative degree of isolation prior to such transfers, removed from minority group isolated schools as a result of such transfers.

(20 U.S.C. 1609(c) (1), (2), and (3))

(b) *Educational and programmatic criteria.* The Assistant Secretary shall determine the educational and programmatic merits of applications for assistance pursuant to § 185.31(a) on the basis of the following criteria (30 points):

(1) *Statement of objectives (6 points).* (i) The degree to which the applicant sets out specific measurable objectives for its program, project, or activity, in relation to students normally enrolled in the schools of the applicant and those enrolled or to be enrolled as a result of the proposed transfers; and (ii) the degree to which (*a*) the program, project, or activity to be assisted promises realistically to achieve the objectives identified in the application, and (*b*) such program, project, or activity involves to the fullest extent practicable the total educational resources, both public and private, of the community to be served.

(2) *Activities (17 points)*—(i) *Project design (5 points).* The extent to which (*a*) the proposed program, project, or activity emphasizes individualized instruction and services; (*b*) students to be served are afforded an opportunity to contribute to, and suggest changes in, the proposed program, project, or activity; (*c*) the proposed program, project, or activity promotes interracial and intercultural understanding; and (*d*) the proposed program, project, or activity involves both students regularly enrolled in the affected school and those affected by the proposed interdistrict transfers;

(ii) *Staffing (3 points).* The extent to which the application (*a*) sets out an adequate staffing plan which includes provisions for making maximum use of present staff capabilities, and (*b*) provides for continuing training of staff in order to increase the effectiveness of the proposed program, project, or activity;

(iii) *Delivery of services (5 points).* The extent to which the application contains evidence that (*a*) arrangements have been made for participation of students affected by the proposed transfers in extracurricular and afterhours activities at the school to which they are transferred; (*b*) arrangements have been made for the participation of parents of such students in school-related activities; and (*c*) school-related activities affecting such students will be carried out in their home communities; and

(iv) *Parent and community involvement (4 points).* The extent to which the application (*a*) delineates specific opportunities for community and advisory committee participation in the development and implementation of the proposed program, project, or activity in addition to those required by § 185.37, and (*b*) includes evidence that such participation has been encouraged and has in fact occurred.

(3) *Resource management (3 points).* The extent to which the application contains evidence that (i) the amount of funds requested is of sufficient magnitude in relation to the number of participants to be served to give substantial promise of achieving the stated objectives; (ii) the costs of project components are reasonable in relation to the expected benefits; and (iii) the proposed project will be coordinated with related existing efforts.

(4) *Evaluation (4 points).* The extent to which the application sets out a format for objective, quantifiable measurement of the success of the proposed program, project, or activity in achieving the stated objectives, including (i) a timetable for compilation of data for evaluation and a method of reviewing the program, project, or activity in the light of such data; (ii) a description of instruments to be used for evaluation of the proposed program, project, or activ-

ity (and of the method for validating such instruments where necessary), or a description of the procedure to be employed in selecting such instruments; and (iii) provisions for comparison of evaluation results with norms, control group performance, results of other programs, or other external standards.

(5) In making the determinations required under this paragraph, the Assistant Secretary is authorized to purchase or utilize the services, recommendations, and advice of experts in the area of education and human relations from the Department, other Federal agencies, State or local governmental units, or the private sector.

(20 U.S.C. 1601(b), 1609(a)(11), 1609(c)(1), (2), (4), and (6))

(c) *Funding criteria.* In determining amounts to be awarded to applicants for assistance pursuant to § 185.31(a), the Assistant Secretary shall consider the additional cost to such applicant (as such cost is defined in § 185.13(a)) of effectively carrying out its proposed program, project, or activity, in relation to the amount of funds available for assistance under this subpart and the other applications pending before him. The Assistant Secretary shall not be required to approve any application which does not meet the requirements of the Act or this subpart, or which sets forth a program, project, or activity of such insufficient promise for achieving the purposes of the Act that its approval is not warranted. In applying the criterion set out in this paragraph, the Assistant Secretary shall award funds to applicants (whose applications meet such requirements and are of sufficient promise to warrant approval) in the order of their ranking on the basis of the criteria set out in this section, except that where there is pending before the Assistant Secretary an application for assistance under § 185.31(b) which meets the requirements of the Act and this subpart, and which sets forth a program, project, or activity of such sufficient promise for achieving the purposes of the Act that its approval is warranted, the Assistant Secretary shall ensure that at least one grant is made for the purposes of § 185.31(b) prior to the award of any assistance for the purposes of § 185.31(a).

(20 U.S.C. 1608(b), 1609(c)(1)(C), 1609(c)(5).)

[38 FR 3452, Feb. 6, 1973, as amended at 40 FR 25175, June 12, 1975]

§ 185.35 Criteria for assistance (areawide plans).

(a) *Statistical criteria.* In approving applications for assistance pursuant to § 185.31(b), the Assistant Secretary shall apply the following statistical criteria (60 points):

(1) The need for such assistance, as indicated by the number and percentage of minority group children enrolled in all schools of the local educational agencies in the affected Standard Metropolitan Statistical Area for the fiscal year or years for which assistance is sought (30 points); and

(2) The net reduction in minority group isolation, in terms of the number of children affected, to be accomplished by the areawide plan to be developed pursuant to § 185.31(b) (30 points). The term "net reduction in minority group isolation," for purposes of this subparagraph, means the weighted number of minority group children currently enrolled in minority group isolated schools in the Standard Metropolitan Statistical Area whose degree of isolation will be eliminated or reduced as a result of the plan to be developed.

(20 U.S.C. 1608(a)(2), 1609(c)(1).)

(b) *Educational and programmatic criteria.* The Assistant Secretary shall determine the educational and programmatic merits of applications for assistance pursuant to § 185.31(b) on the basis of the following criteria (30 points):

(1) *Statement of objectives (6 points).* (i) The degree to which the applicant sets out specific measurable objectives for its program, project, or activity, in relation to the needs identified; and (ii) the degree to which (*a*) the program, project, or activity to be assisted promises realistically to result in the development and implementation of a plan as described in § 185.31(b), and (*b*) such program, project, or activity involves to the fullest extent practicable the total educational resources, both public and private, of the community to be served.

(2) *Activities (19 points)*—(i) *Project design (10 points).* The extent to which the application includes (*a*) plans for a comprehensive demographic study of the affected Standard Metropolitan Statistical Area, including projections of housing patterns; (*b*) provisions for participation of the appropriate housing authorities, zoning boards, regional plan-

ning organizations, and other such governmental and quasi-governmental agencies; (*c*) opportunities for students in the affected area to contribute to the development of the proposed plan; (*d*) provisions for improvement of educational services offered by local educational agencies affected by the proposed plan; and (*e*) a specific timetable for completion of various elements of the plan to be developed;

(ii) *Staffing (2 points)*. The extent to which the application (*a*) sets out an adequate staffing plan which includes provisions for making maximum use of present staff capabilities, and (*b*) provides for participation by both minority and nonminority group staff members; and

(iii) *Parent and community involvement (7 points)*. The extent to which the application (*a*) delineates specific opportunities for community and advisory committee participation in the development and implementation of the proposed program, project, or activity in addition to those required by § 185.37 and (*b*) includes evidence that such participation has been encouraged and has in fact occurred.

(3) *Resource management (2 points)*. The extent to which the application contains evidence that (i) the amount of funds requested is of sufficient magnitude to give substantial promise of achieving the stated objectives; (ii) the proposed program, project, or activity will be coordinated with related existing efforts; and (iii) existing facilities will be utilized after implementation of the plan to be developed.

(4) *Evaluation (3 points)*. The extent to which the application sets out a format for measurement of success in attaining specific objectives and subobjectives.

(5) In making the determinations required under this paragraph, the Assistant Secretary is authorized to purchase or utilize the services, recommendations, and advice of experts in the areas of education and human relations from the Department, other Federal agencies, State or local governmental units, or the private sector.

(20 U.S.C. 1601(b), 1609(a)(11), 1609(c)(1), (4), and (6))

(c) *Funding criteria*. In determining amounts to be awarded for assistance pursuant to § 185.31(b), the Assistant Secretary shall apply the criteria set forth in § 185.34(c).

(20 U.S.C. 1609(c)(1)(C), 1609(c)(5))

§ 185.36 [Reserved]

§ 185.37 Advisory committees.

(a) *Interdistrict transfers*. (1) Applicants for assistance under § 185.31(a) shall comply with the requirements of § 185.41 as to advisory committee participation and public hearings. For purposes of this paragraph, references in § 185.41 to "the community" or "communities to be served" shall be understood to refer to the areas in both the school district served by the applicant and that served by the cooperating local educational agency.

(2) For purposes of this paragraph, the reference in § 185.41(h) to a "school which will be affected by any program, project, or activity assisted under the Act" shall be understood to refer to the integrated schools established pursuant to § 185.31(a).

(3) Student advisory committees established pursuant to this paragraph, in addition to meeting the requirements of § 185.41(h), shall consist of equal numbers of students regularly enrolled in such schools and of students enrolled in such schools by virtue of the interdistrict transfers assisted under § 185.31(a).

(20 U.S.C. 1609(a) (2) and (3), 1609(b).)

(b) *Area-wide plans*. (1) Applications for assistance under § 185.31(b) shall comply with the requirements of §§ 185.41(a) through (g) as to advisory committee participation and public hearings. For purposes of this paragraph, the references in § 185.41 to "the community" or "communities to be served" shall be understood to refer to the entire area to be affected by the plan to be developed under § 185.31(b). Where the affected Standard Metropolitan Statistical Area includes members of minority groups in insubstantial proportions, applicants for assistance under § 185.31(b) may establish a committee pursuant to this paragraph which includes equal numbers of non-minority group members and of members from each minority group substantially represented in the community, and an equal number of members, taken together, from other minority groups represented in the community.

(2) Only one advisory committee shall be established pursuant to this paragraph, regardless of the number of local educational agencies joining in the application for assistance.

(3) Applicant agencies shall designate teachers to serve as members of such committee in accordance with § 185.41 (c)(2), except that committees established pursuant to this paragraph shall not be required to include more than 6 teacher members.

(4) Student members of such committee selected in accordance with § 185.41 (c)(4) shall include at least one student enrolled in the schools of each applicant agency (and, in the case of an application for assistance under § 185.31 (b), of each local educational agency approving such application), except that committees established pursuant to this paragraph shall not be required to include more than 6 student members.

(20 U.S.C. 1609(a)(2) and (3), 1609(b).)

[38 FR 3452, Feb. 6, 1973, as amended at 40 FR 25175, June 12, 1975]

§ 185.38 Limitations on eligibility.

The limitations on eligibility set forth in § 185.43, the provisions of § 185.44 as to waiver of ineligibility, and the provisions of § 185.45 as to termination of assistance shall apply to all applicants or recipients of assistance under this subpart.

(20 U.S.C. 1605(d), 1608, 1609(a) and (b).)

§§ 185.39–185.40 [Reserved]

Subpart E—General Requirements

§ 185.41 Advisory committees.

(a) *Consultation with advisory committee.* A local educational agency shall, prior to submission of an application for assistance under subpart B, C, D, F, H, or J of this part, consult with a districtwide advisory committee formed in accordance with paragraph (c) of this section in identifying problems and assessing the needs to be addressed by such application. Such agency shall afford such committee a reasonable opportunity (not less than 10 days) in which to review and comment upon such application, and shall establish such committee at least 5 days prior to the commencement of such review period. In connection with the establishment of such committee, the applicant shall furnish to each member of such committee a copy of the Act and this regulation.

(Public Law 92–318, section 710(a)(2)(B))

(b) *Public hearing.* Prior to submission of an application under subpart B, C, D, F, H, or J of this part, such agency shall hold at least one open, public hearing with parents, teachers, and (in any school district where a proposed program, project, or activity will affect the secondary school(s)) secondary school students, including but not limited to the members of a committee formed in accordance with paragraph (c) of this section, at which hearing such persons are afforded a full opportunity to understand the program, project, or activity for which assistance is being sought and to offer recommendations thereon. Such hearing shall be held no less than 7 days prior to submission of an application under the Act, and shall be advertised in a newspaper of general circulation or otherwise made public not less than 5 days prior to the date of such hearing. Evidence of such publication and a copy of the minutes of the hearing required by this subparagraph shall be submitted with such agency's application for assistance. At a minimum, such minutes shall include a statement of the date, time, and location of such hearings, the number of persons in attendance, and a brief summary (not a verbatim transcript) of the views expressed at such hearing.

(Public Law 92–318, section 710(a)(2)(A))

(c) *Composition of committee.* (1) In order to establish a districtwide advisory committee as required by this section, a local educational agency shall designate at least five civic or community organizations, each of which shall select a member of the committee. The civic or community organizations which participate in the selection process shall, when taken together rather than considered individually, be broadly representative of the minority and nonminority communities to be served by the proposed program, project, or activity.

(2) Such agency shall, after consultation with the appropriate teachers' organization(s), either (i) designate one nonminority group classroom teacher and one such teacher from each minority group substantially represented on the faculty or in the student body, of such agency to serve as members of the districtwide advisory committee, or (ii) delegate the designation of such teachers to such organization.

(3) A committee formed under this paragraph must be composed of equal numbers of nonminority group members and members from each minority group substantially represented in the community. (For example, in a school district containing both Negro and Spanish-surnamed communities, the committee shall be composed of equal numbers of Negro, Spanish-surnamed American, and nonminority group members.) At least 50 per centum of the members of the committee shall be parents of children directly affected by the program, project, or activity for which assistance is sought. In addition to members appointed pursuant to subparagraphs (1) and (2) of this paragraph, and taking into account the students to be appointed pursuant to subparagraph (4) of this paragraph, such agency shall select the minimum number of additional persons as may be necessary to meet the requirements of this subparagraph. (For example, if in a biracial community the civic or community organizations designate three minority group members and two nonminority group members, three of whom are parents; and two teachers who are not parents are also selected, and two students are to be selected pursuant to subparagraph (4) of this paragraph, the agency must select two nonminority parents and one minority parent to complete the committee.)

(4) Committee members appointed pursuant to subparagraphs (1), (2), and (3) of this paragraph shall select at least one nonminority group secondary school student and an equal number of such students from each minority group substantially represented in the community to serve as members of the districtwide advisory committee. Such students shall be regularly enrolled in a secondary school or schools operated by the local educational agency.

(5) A committee which has been formed pursuant to an order of a Federal or State court for the desegregation of the school system of such agency may be designated as the districtwide advisory committee required by this section, provided that the requirements of subparagraphs (2), (3), and (4) of this paragraph are observed.

(Public Law 92-318, section 710(a)(2)(B))

(d) *Comments by committee; hearings.* No application by a local educational agency for assistance under subpart B, C, D, H, or J of this part shall be approved which is not accompanied by the written comments of a committee formed in accordance with paragraph (c) of this section. If a majority of the members of such committee requests an informal hearing with the Assistant Secretary with respect to such application, an opportunity for such a hearing shall be afforded to such committee prior to approval of such application. The Assistant Secretary or his designee shall hold such hearing in or near the school district served by such agency, and in no case at a greater distance from such school district than the appropriate Regional Office of the Department. The affected local educational agency shall be afforded an opportunity to respond to the comments or criticisms offered by the committee. The Assistant Secretary or his designee shall communicate his findings as to the matters presented by such committee at such hearing, and his action or decision on the basis of such findings, to the committee and the affected local educational agency, in writing, prior to approval of such agency's application for assistance.

(Public Law 92-318, section 710(b))

(e) *Post-award consultation.* Each application by a local educational agency for assistance under the Act shall contain an assurance that such agency will consult at least once a month with its districtwide advisory committee established under this section (in formal meetings of such committee) with respect to policy matters arising in the administration and operation of any program, project, or activity for which funds are made available under the Act, and that it will provide such committee with a reasonable opportunity to periodically observe (upon prior and adequate notice to such agency at such time or times as such committee and agency may agree) and comment upon all project-related activities. (Such consultation shall not be required in the event that the local educational agency is not awarded assistance under the Act.) Each such formal meeting shall be open to the public, and shall be advertised in a newspaper of general circulation or otherwise made public not less than 5 days prior to the date of such meeting.

(Public Law 92-318, section 710(a)(3))

(f) *Publication.* The names of the members of the districtwide advisory committee established in accordance with paragraph (c) of this section, and a statement of the purpose of such committee, shall be published in a newspaper of general circulation or otherwise made public not less than 5 days prior to the public hearing required by paragraph (b) of this section. Evidence of such publication shall be submitted with the local educational agency's application for assistance.

(Public Law 92-318, sections 710(a) (2) and (3))

(g) *Comments and suggestions by committee.* No amendment to the program, project, or activity of a local educational agency shall be approved, and no additional funds made available under the Act, unless the districtwide advisory committee has been consulted and involved in the development of, and has been given an opportunity to comment upon, such amendment of or addition to the program, project, or activity. Such comments shall be included with any application submitted by such agency for such amendment or additions. Amendments or additions suggested by the districtwide advisory committee shall be forwarded by the local education agency, with or without comment by such agency, to the Assistant Secretary for his consideration.

(Public Law 92-318, section 710(a)(3))

(h) *Student advisory committees.* (1) The local educational agency shall, not more than 15 days after approval of an application for assistance under the Act, or not more than 15 days after commencement of the first academic year for which such assistance is awarded, whichever is later, establish in accordance with subparagraph (2) of this paragraph a student advisory committee of secondary school students at each school which will be affected by any program, project, or activity assisted under the Act and which offers secondary instruction.

(2) Each such committee shall be composed of equal numbers of nonminority group secondary students and of such students from each minority group substantially represented in each such school. The members of each such committee shall be selected by the student body or the student government of such school. Each such committee shall have at least six members.

(3) The application of such agency shall contain an assurance that representatives of the agency will periodically consult with student advisory committees established pursuant to this paragraph concerning matters relevant to the program, project, or activity, and that copies of the Act and this regulation and the agency's approved project proposal will be supplied to all members of such committees.

(4) Not more than 30 days after the award of assistance under the Act (or after commencement of the first academic year for which such assistance is awarded, whichever is later), such agency shall afford the members of its student advisory committees (or at least one representative from each of such committees) an opportunity to select at least one nonminority group secondary student and an equal number of such students from each minority group substantially represented in the community, to serve as members of the district-wide advisory committee, in addition to those students selected pursuant to paragraph (c)(4) of this section. (Such agency shall select the minimum additional number of parents as may be necessary to meet the requirement of paragraph (c)(3) of this section.)

(5) The names of the members of such committees, a statement of the purpose of such committees, and the names of additional members of the districtwide advisory committee selected pur-

suant to subparagraph (4) of this paragraph shall be published in a newspaper of general circulation or otherwise made public not more than 10 days after their selection. The names of the members of committees formed pursuant to this paragraph and evidence of such publication shall be submitted to the Assistant Secretary not more than 20 days after the date required pursuant to subparagraph (4) of this paragraph for selection of such additional members.

(Public Law 92–318, sections 710(a)(2)(B), 710(a)(3))

[38 FR 3452, Feb. 6, 1973, as amended at 40 FR 25175, June 12, 1975]

§ 185.42 Participation by children enrolled in nonpublic schools.

(a) *Assurances*. Applications by local educational agencies for assistance under Subpart B, C, F, or J of this part shall contain:

(1) In the case of project activities primarily directed to minority group children, an assurance that to the extent consistent with the number of minority group children who are enrolled in nonpublic nonprofit elementary and secondary schools in the area to be served (which are operated in a manner free from discrimination on the basis of race, color, or national origin, and which do not serve as alternatives for children seeking to avoid attendance in desegregated or integrated public schools), the participation of which children would assist in achieving the purposes of the Act, the applicant (after consultation with the appropriate nonpublic school officials) has made provision for the participation of such children on an equitable basis; and

(2) In the case of project activities directed to minority and nonminority group children, teachers, and other educational staff, an assurance that to the extent consistent with the number of children, teachers, and other educational staff enrolled or employed in nonpublic nonprofit elementary and secondary schools within the school district of the applicant (which are operated in a manner free from discrimination on the basis of race, color, or national origin, and which do not serve as alternatives for children seeking to avoid attendance in desegregated or integrated public schools), the participation of which children, teachers, and other educational staff would assist in achieving the purposes of the Act or, in the case of an application under subpart F of this part, would assist in meeting the needs described in that subpart, the applicant (after consultation with the appropriate nonpublic school officials) has made provision for the participation of such children, teachers, and other educational staff on an equitable basis.

(Public Law 92–318, section 710(a)(12))

(b) *Definitions*. (1) "Area to be served," for purposes of paragraph (a)(1) of this section, means the general geographical area in which the program, project, or activity assisted under subpart B, C, F, or J of this part is to be conducted, and may include the entire school district of the local educational agency. The area to be served shall be determined on the basis of the activities proposed to be undertaken by the local educational agency, the need for such activities in nonpublic schools serving the school district of such agency, and the appropriateness of participation by children, teachers, and other educational staff enrolled in or employed by such nonpublic schools.

(2) "An equitable basis" for participation of nonpublic schoolchildren, teachers, and other educational staff, for purposes of paragraph (a) of this section, means that the special needs of such children, teachers, and other educational staff shall be served to the same extent that special needs are served with respect to children, teachers, and other educational staff enrolled in or employed by the local educational agency.

(Public Law 92–318, section 710(a)(12))

(c) *Exclusion of discriminatory nonpublic schools*. No child, teacher, or other educational staff member shall participate in any activity assisted under the Act if such child, teacher, or other educational staff member is enrolled in or employed by a nonpublic school which is operated on a racially segregated basis as an alternative for children seeking to avoid attendance in desegregated or integrated public schools, or otherwise practices, or permits to be practiced, discrimination on the basis of race, color, or national origin in admissions or the operation of any school activity. Determinations required under this paragraph shall be made in accordance with § 185.43(a).

(Public Law 92–318, section 702(b), 706(d)(1), 710(a)(12))

(d) *Applicability.* (1) The participation of children, teachers, or other educational staff enrolled in or employed by a nonpublic school shall be considered to assist in achieving the purposes of the Act if such nonpublic school is attended by a significant number or percentage of minority and nonminority group children, or is implementing a plan to desegregate or reduce minority group isolation in its student body and faculty to a significant extent, or is part of a nonpublic school system implementing a plan to desegregate or to eliminate or reduce minority group isolation in one or more schools and is significantly affected by such plan.

(2) The participation of children, teachers, or other educational staff enrolled in or employed by a nonpublic school shall be considered to assist in meeting the needs described in subpart F of this part if such school is attended by a significant number or percentage of minority group children who are from an environment in which a dominant language is other than English and who, because of language barriers and cultural differences, do not have equality of educational opportunity.

(Public Law 92–318, sections 702(b), 706(d)(1), 708(c)(1), 710(a)(12))

(e) *Assessment of needs.* The special needs of children, teachers, and other educational staff enrolled in or employed by nonpublic schools, the number of such children, teachers, and staff who will participate in activities assisted under the Act, and the types of special services to be provided for them, shall be determined, after consultation with officials of such schools and other persons knowledgeable of the needs of such children, teachers, and other educational staff, on a basis comparable to that used in providing for the participation in activities assisted under the Act by children, teachers, and other educational staff enrolled in or employed by schools operated by the local educational agency.

(Public Law 92–318, section 710(a)(12))

(f) *Information required.* An application by a local educational agency for assistance under the Act shall show the number of children, teachers, and other educational staff enrolled in or employed by nonpublic schools who are expected to participate in the program, project, or activity described therein, and the degree and manner of their expected participation. For each nonpublic school which enrolls such children or employs such teachers and other educational staff, the application shall show the total enrollment of such school, by race, and the racial composition of the faculty and staff. Such application shall also describe the manner in which and extent to which representatives of such nonpublic schools, and persons knowledgeable of the needs of the children, teachers, and other educational staff enrolled in or employed by such schools have participated in the development of the application, and the provisions which have been made for effective liaison with such representatives or persons with regard to operation and review of the proposed program, project, or activity.

(Public Law 92–318, sections 706(d)(1)(A), 710(a)(12))

(g) *Joint participation.* Programs, projects, or activities assisted under the Act may be carried out at such locations as will efficiently and conveniently serve the children, teachers, and other educational staff of the affected public and nonpublic schools. Any project involving a joint participation of children, teachers, and other educational staff enrolled in or employed by public and nonpublic schools shall include such provisions as are necessary to prevent separation of such children, teachers, and other educational staff by school or religious affiliation in any class or other project unit.

(Public Law 92–318, section 710(a)(12))

(h) *Activities on nonpublic school premises.* Public school personnel may be made available in other than public school facilities to the extent necessary to provide special services for those children, teachers, or other educational staff for whose needs such special services were designed, when such services are not normally provided by the nonpublic school. The applicant shall maintain administrative direction and control over such services. Mobile or portable equipment may be used on nonpublic school premises only for such time within the project period as is necessary for the successful participation in such program, project, or activity by children, teachers, and other educational staff enrolled in or employed by such nonpublic schools. Provisions for special services for children, teachers, and other educational staff enrolled in or employed by nonpublic schools shall not include the payment of salaries for teachers or other employees of nonpublic schools (except for services performed after school hours when such teachers or other employees are not under the direction and control of such schools), nor shall they include the use of equipment other than mobile or portable equipment on nonpublic school premises or any contruction, remodeling, or repair of nonpublic school facilities. "Mobile or portable equipment," for purposes of this paragraph, means manufactured items which have an extended useful life and are not consumed in use, and are not permanently fastened to the building or the grounds.

(Public Law 92-318, section 710(a)(12))

(i) *Waiver*. In any case where a local educational agency considers itself to be prohibited by law from providing for the participation of children, teachers, and other educational staff enrolled in or employed by nonpublic schools as required by this section, such agency shall furnish to the Assistant Secretary copies of such laws, rules, court decisions, or opinions of State legal officers as are necessary to set out the basis for such prohibition. Where such prohibition exists, the Assistant Secretary shall waive such requirement with respect to such agency and arrange for the participation of such children, teachers, and other educational staff as provided in sections 712(c) (1) and (2) of the Act.

(Public Law 92-318, sections 712(c) (1) and (2))

(j) *Failure to provide for nonpublic school participation*. If a local educational agency fails to provide for the participation, on an equitable basis, of children, teachers, and other educational staff enrolled in or employed by nonpublic schools in the school district served by such agency on any grounds other than those authorized by paragraph (i) of this section, it shall set out such grounds in its application or upon inquiry by the Assistant Secretary. If the Assistant Secretary determines such grounds to be insubstantial, and if the Assistant Secretary further determines that a local educational agency has substantially failed to provide for the participation, on an equitable basis, of such children, teachers, and other educational staff, he shall arrange for such participation as provided in section 712(c)(3) of the Act.

(Public Law 92-318, section 712(c)(3))

(k) *Informal conference*. Representatives of States, local educational agencies, nonpublic schools, or children, teachers, and other educational staff enrolled in or employed by nonpublic schools whose interests are directly affected by a determination made under this section may request an informal conference with the Assistant Secretary to show cause why such determination should be reviewed or revised. The Assistant Secretary or his designee shall hold such a conference within 15 days of receipt of such a request.

(Public Law 92-318, sections 710(a)(12) and 712(c))

§ 185.43 Limitations on eligibility.

(a) *Transfers to discriminatory nonpublic schools*. No educational agency shall be eligible for assistance under the Act if, after June 23, 1972, it has transferred (directly or indirectly by gift, lease, loan, sale, or any other means) any real or personal property, or made available any services, to a nonpublic school or school system (or any person or organization controlling, operating, or intending to establish such a school or school system) without a prior determination that such nonpublic school or school system is not operated on a racially segregated basis as an alternative for children seeking to avoid attendance in desegregated or integrated public schools, and that such nonpublic school or school system does not otherwise practice, or permit to be practiced, discrimination on the basis of race, color, or national origin in admissions or in the operation of any school activity.

(1) Subsequent to the effective date of this section, in order to determine whether a transferee under this paragraph is a nonpublic school or school system, or a person or organization controlling, operating or intending to establish such a school or school system, an educational agency shall, at a minimum, obtain from such transferee, in writing, the following information:

(i) The legal name and address of the transferee and, if the immediate transferee is acting in a representative capacity, the legal name and address of his or its principal; and if such information does not clearly indicate the nature of the transferee or his or its principal, a copy of the articles of incorporation, charter, bylaws, or other documents indicating the legal status and stated purposes of the transferee or his or its principal; and

(ii) A statement of the use to be made of the property or services to be transferred.

(iii) In the case of a transfer occurring subsequent to June 23, 1972, but prior to the effective date of this section, a determination required by this subparagraph shall be substantiated by credible evidence satisfactory to the Assistant Secretary.

(2) Subsequent to the effective date of this section, in making the prior determination required under this paragraph as to the nature and practices of a nonpublic school or school system, an educational agency shall, at a minimum, obtain from such school or school system, in writing, the following information:

(i) Whether the school has publicized a policy of nondiscrimination in admissions, educational policies, scholarship programs, athletics, and extracurricular activities;

(ii) Whether the school has publicized this policy in a manner intended and reasonably likely to bring into the attention of school-age minority group persons, and their families, without making other statements or taking actions that negate the effect of such publicity;

(iii) Whether applicants for admission have been treated on a nondiscriminatory basis, and whether the racial composition of faculty, staff and student body is consistent with a policy of nondiscrimination;

(iv) Whether scholarship assistance is made available without regard to race, and whether students and scholarship recipients are recruited among all segments of the community; and

(v) Whether the school's incorporators, founders, board members, or donors of its land or buildings are announced or generally known as having as a primary objective the maintenance of segregated education, or are announced or identified as officers or active members of an organization with such an objective.

(vi) In the case of a transfer occurring subsequent to June 23, 1972, but prior to the effective date of this section, a determination required to be made by this subparagraph shall be substantiated by credible evidence satisfactory to the Assistant Secretary.

(3) For purposes of subparagraph (2) (iii) of this paragraph, a nonpublic school which has no minority students, or a nonpublic school system which has no minority students in one or more of its schools, shall be presumed to discriminate. If such a nonpublic school or school system has also failed to adopt and publish a policy of nondiscrimination in accordance with subparagraphs (2)(i) and (2)(ii) of this paragraph, the presumption of discrimination shall be conclusive.

(4) The fact that a local educational agency may have obtained an assurance or statement of nondiscrimination from a transferee, or included such assurance or statement in the transfer documents, shall not excuse such agency from making the determination required by this paragraph.

(Public Law 92-318, section 706(d)(1)(A); Green v. Connally, 330 F. Supp. 1150 (D.C. D.C. 1971), aff'd sub nom. Coit v. Green, 404 U.S. 997 (1971); Wright v. City of Brighton, Alabama, 441 F. 2d 447 (5th Cir. 1971), cert. den. 404 U.S. 915 (1971))

(b) *Demotion or dismissal of minority group personnel.* (1) No educational agency shall be eligible for assistance under the Act if, after June 23, 1972, it has had or maintained in effect any practice, policy, or procedure which results in the disproportionate demotion or dismissal of instructional, administrative, or other personnel from minority groups in conjunction with desegregation or the implementation of any plan or the conduct of any activity described in section 706 of the Act, or which has resulted in the disproportionate demotion or dismissal of such personnel during the period in which such educational agency has been desegregating (or eliminating or reducing isolation of minority group children) pursuant to an order of a Federal or State court, a plan approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964, or an order of a State agency or official of competent jurisdiction.

(i) For purposes of this subparagraph, a disproportionate demotion or dismissal of minority group personnel has occurred if the ratio of minority group elementary school teachers, secondary school teachers, principals, or other staff demoted or dismissed to the number of such minority group personnel employed by such agency before such demotions or dismissals exceeds by more than 10 percentage points the ratio of such nonminority group personnel so demoted or dismissed over the same period of time to the number of such nonminority group personnel employed by such agency prior to such demotions or dismissals. (For example, such an agency would be in violation of this subparagraph if it has demoted or dismissed 21 percent of its minority group principals and 10 percent of its nonminority group principals over the same period of time.)

(ii) For purposes of this paragraph, a demotion includes any reassignment (*a*) under which a faculty or staff member receives less pay or has less responsibility than under the assignment he held prior to such reassignment, (*b*) which requires a lesser degree of skill than did the assignment he held previously, or (*c*) under which he is required to teach in a subject or grade other than one for which he is certified or in which he has substantial experience or qualifications.

(iii) For purposes of this paragraph, a dismissal includes any termination of or failure to renew a contract, for cause or otherwise, including resignations impelled by threatened administrative or other sanctions.

(2) No educational agency shall be eligible for assistance under the Act if, after June 23, 1972, it has had or maintained in effect any other practice, policy, or procedure which results in discrimination on the basis of race, color, or national origin in the recruiting, hiring, promotion, payment, demotion, dismissal, or assignment of any of its employees (or other personnel for which such agency has any administrative responsibility), including the assignment of full-time classroom teachers to the schools of such agency in such a manner as to identify any of such schools as intended for students of a particular race, color, or national origin.

(3) (i) A practice, policy, or procedure resulting in the disproportionate demotion or dismissal of minority group personnel shall be considered to be or remain in effect after June 23, 1972, if at the time such agency applies for assistance under the Act, the proportion of minority group elementary schoolteachers, secondary schoolteachers, principals, or other staff affected by such demotions or dismissals has not been restored at least to the proportion which existed prior to such demotions or dismissals, unless such an agency which has had or maintained in effect such a practice, policy, or procedure submits with its application for assistance information establishing that such a practice, policy, or procedure has not been in effect since June 23, 1972, as demonstrated by corrective measures taken and progress achieved in eliminating the results of such a practice, policy, or procedure.

(ii) A demotion or dismissal shall be considered to be discriminatory if the staff member demoted or dismissed has not been selected on the basis of objective, nonracial, reasonable, and nondiscriminatory criteria applied to staff members of all racial or ethnic groups. A discriminatory practice, policy, or procedure shall be considered to be or remain in effect after June 23, 1972, if, at the time such agency applies for assistance under the Act, any staff member so demoted or dismissed has not been offered reinstatement to his former position and offered pecuniary compensation for any loss incurred as a result of such demotion or dismissal, or if any staff vacancy occurring subsequent to any demotion or dismissal in the process of desegregation is or has been filled through hiring of a person of a different race, color, or national origin before a qualified staff member so demoted or dismissed has been offered employment in such vacancy and has failed to accept such an offer.

(Public Law 92-318, section 706(d)(1)(B); Senate Report No. 92-61, p. 19; Singleton v. Jackson Municipal Separate School District, 419 F. 2d 1211 (5th Cir. 1969))

(c) *Classroom segregation.* No educational agency shall be eligible for assistance under the Act if, after June 23, 1972, it has had or maintained in effect any procedure for the assignment of children to or within classes which results in any separation of minority group from nonminority group children for more than 25 percent of the school day classroom periods, in conjunction with desegregation or the conduct of any activity described in section 706 of the Act. This paragraph shall not be construed to prohibit bona fide ability grouping as a standard pedagogical practice. Such grouping is that which is:

(1) Based upon nondiscriminatory, objective standards of measurement which are educationally relevant to the purposes of such grouping and which, in the case of national origin minority group children, do not essentially measure English language skills;

(2) Determined by the nondiscriminatory application of the standards described in subparagraph (1) of this paragraph, and maintained for only such portion of the school day classroom periods as is necessary to achieve the purposes of such grouping;

(3) Designed to meet the special needs of the students in each group determined by the application of the standards described in subparagraph (1) of this paragraph and to improve the academic performance and achievement of students determined to be in the less academically advanced groups, by means of specially developed curricula, specially trained or certified instructional personnel, and periodic retesting to determine academic progress and eligibility for promotion; and

(4) Validated by test scores or other reliable objective evidence indicating the educational benefits of such grouping.

(Public Law 92-318, section 706(d)(1)(C); Senate Report No. 92-61, p. 19)

(d) *Discrimination against children.* No educational agency shall be eligible for assistance under the Act if, after June 23, 1972, it has had or maintained in effect any practice, policy, or procedure which results or has resulted in discrimination against children on the basis of race, color, or national origin, including but not limited to:

(1) Limiting curricular or extracurricular activities (or participation by children therein) in order to avoid the participation of minority group children in such activities;

(2) Denying equality of educational opportunity or otherwise discriminating against national origin minority children on the basis of language or cultural background;

(3) Permitting the rental, use, or enjoyment of any of such agency's facilities or services by any group or organization which discriminates against minority group children aged 5 to 17, inclusive, in its admissions or membership policies, or otherwise practices, or permits to be practiced, discrimination against such children on the basis of race, color, or national origin;

(4) Imposing disciplinary sanctions, including expulsion, suspension, or corporal or other punishment, in a manner which discriminates against minority group children on the basis of race, color, or national origin;

(5) Assigning students to ability groups, tracks, special education classes, classes for the mentally retarded, or other curricular or extracurricular activities on the basis of race, color, or national origin. Racially or ethnically identifiable groups, tracks, or classes which cannot be justified educationally under the criteria set out in paragraph (c) of this section shall be presumed to be assigned on the basis of race, color, or national origin.

(6) Denying comparable facilities or instructional or other services to minority group children enrolled in the schools of such agency on the basis of race, color, or national origin.

(Public Law 92-318, section 706(d)(1)(D))

(e) *Continuing conditions of eligibility.* The limitations on eligibility set forth in this section shall be continuing conditions of eligibility during the entire period for which assistance is made available to an educational agency under the Act, and such agency's failure to comply with such conditions after the award of such assistance shall be grounds for termination of assistance and for such other sanctions as the Assistant Secretary may determine.

(Public Law 92-318, section 706(d)(1); Senate Report No. 92-61, p. 18, 41-42)

§ 185.44 Waiver of ineligibility.

(a) In the event that a local educational agency prior to the award of assistance under the Act is determined to be ineligible for such assistance under § 185.43, such agency may apply to the Secretary for a waiver of such ineligibility.

(Public Law 92-318, sections 706(d)(1)-(3))

(b) An application for waiver under paragraph (a) of this section shall contain such information and assurances as will insure that any practice, policy, procedure, or other activity resulting in ineligibility has ceased to exist to occur, and shall include such provisions as are necessary to insure that such practice, policy, procedure, or activity will not reoccur after the submission of such application.

(Public Law 92-318, sections 706(d) (1)-(3))

(c) Transfers to discriminatory nonpublic schools: In the case of ineligibility under § 185.43(a), an application for waiver shall contain:

(1) A list of all property transferred or services made available to nonpublic schools or school systems operated on a racially segregated basis or which practice, or permit to be practiced, discrimination on the basis of race, color, or national origin in admissions or the operation of any school activity, the names and addresses of such schools or school systems, and the consideration received for such transfers;

(2) Evidence that all transfers described in subparagraph (1) of this paragraph have been rescinded and all unearned consideration received therefor has been repaid or returned, to the extent possible under the applicable State law; and

(3) A statement of steps taken by such agency to avoid or prevent such transfers in the future.

(Public Law 92-318, sections 706(d) (1)-(3))

(d) Demotion or dismissal of minority group personnel:

(1) In the case of ineligibility under § 185.43(b)(1) of this part resulting from the disproportionate demotion or dismissal of instructional, administrative, or other personnel from minority groups, an application for waiver shall contain:

(i) A plan of affirmative action to insure that within a reasonable time from the date of such application, the proportion of minority group elementary school teachers, secondary school teachers, principals, or other staff affected by such demotions or dismissals will be restored at least to the proportion which existed prior to such demotions or dismissals; and

(ii) A statement of steps taken by such agency to prevent any future disproportionate demotion or dismissal of minority group personnel.

(2) In the case of ineligibility under § 185.43(b)(2) resulting from discriminatory demotion or dismissal of instructional or other personnel from minority groups in the process of desegregation, an application for waiver shall contain:

(i) Evidence that all minority group personnel so demoted or dismissed have been offered reinstatement to their former positions and afforded pecuniary compensation for any loss incurred as a result of such demotions or dismissals, such as diminution in salaries, additional commuting expenses, and the like;

(ii) A plan of affirmative action as required by subdivision (i) of subparagraph (1) of this paragraph; and

(iii) A statement of steps taken by such agency to prevent any future discriminatory demotion or dismissal of minority group personnel, including but not limited to a statement of objective, nonracial, and reasonable criteria to be applied in the event that reinstatement of minority group personnel as required by subdivision (i) of this subparagraph necessitates a reduction in the number of elementary school teachers, secondary school teachers, principals, or other staff, or in the event of future demotions or dismissals for any reason.

(3) In the case of ineligibility resulting from discriminatory assignment of

teachers as prohibited by § 185.43(b)(2), such applications for waiver shall contain evidence that such agency has assigned its full-time classroom teachers to its schools so that no school is identified as intended for students of a particular race, color, or national origin. Such nondiscriminatory assignments shall, in the case of a local educational agency implementing a plan described in § 185.11(a), conform to the requirements of such plan with respect to the assignment of faculty. In the case of local educational agencies not implementing such a plan, or implementing such a plan which contains no provision as to assignment of faculty, such assignments shall be made so that the proportion of minority group full-time classroom teachers at each school is between 75 per centum and 125 per centum of the proportion of such minority group teachers which exists on the faculty as a whole.

(4) In the case of ineligibility resulting from other discriminatory practices, policies, or procedures prohibited by § 185.43(b)(2), an application for waiver shall contain:

(i) Evidence that minority group personnel subjected to such discrimination have been reinstated or restored to the position or status they held prior to, or would have held in the absence of, such discrimination, and have been afforded pecuniary compensation for any loss incurred as a result of such discrimination, such as diminution in salaries, additional commutation expenses, and the like; and

(ii) A statement of steps taken by such agency to prevent such discrimination in the future.

(5) In the event that the corrective action required under this paragraph includes the employment or promotion of minority group teachers, principals, or other staff, such agency shall give preference in such employment or promotion first to qualified minority group members of its own faculty or staff previously demoted or dismissed for any reason, and secondly to qualified minority group faculty and staff members identified by the Department as previously demoted or dismissed by other local educational agencies in conjunction with desegregation or the conduct of any activity described in section 706 of the Act.

(Public Law 92–318, sections 706(d)(1)–(3); U.S. v. Texas Education Agency (LaVega), No. 71-3185 (5th Cir., Mar. 10, 1972))

(e) Classroom segregation: In the case of ineligibility under § 185.43(c), an application for waiver shall contain:

(1) Evidence that minority group children are not separated from nonminority group children by or within classes for more than 25 percent of the school day classroom periods, except in instances of bona fide ability grouping which meet the requirements of § 185.43(c), where such agency has demonstrated by clear and convincing evidence that such separation is educationally necessary and is the only available method of achieving a specific educational objective; and

(2) A statement of steps taken by such agency to insure that separation of minority and nonminority group children as prohibited by § 185.43(c) will not reoccur in the future.

(Public Law 92–318, sections 706(d)(1)–(3))

(f) Discrimination against children: In the case of ineligibility under § 185.43(d), an application for waiver shall contain evidence that the practice, policy, or procedure prohibited by § 185.43(d) has ceased to exist or occur and that the effects of such practice, policy, or procedure have been remedied or eliminated. In particular:

(1) In the case of a denial of equal educational opportunity to national origin minority children as described in § 185.43(d)(2), such agency shall submit an educational plan of sufficient comprehensiveness to remedy or eliminate the effects of such denial and to meet the special educational needs of all national origin minority group children for whose education such agency is responsible. Such a plan, if required and approved under this subparagraph, shall be implemented regardless of whether funds for such purpose are made available under the Act.

(2) In the case of a violation under § 185.43(d)(3), such agency shall submit evidence that such rental, use, or enjoyment of its facilities is no longer permitted, and that any agreement with respect to such rental, use, or enjoyment has been rescinded and the unearned consideration therefore has been returned or repaid, to the extent possible under the applicable State law.

(3) (i) In the case of the assignment of students to racially or ethnically identifiable groups, tracks, or classes which cannot be justified educationally, as described in § 185.43(d)(5), an educational agency shall submit the following information:

(A) If the assignment was to a grouping to provide special education or related services to handicapped students, evidence that the students so assigned have been evaluated and placed in accordance with requirements for evaluation and placement of handicapped students under Pub. L. 94–142 and section 504 of Pub. L. 93–112, and any regulations under those statutes; or

(B) If the assignment was to other groupings, evidence that the students so assigned have been nondiscriminatorily reassigned to groupings that are not racially or ethnically identifiable, or evidence that the students so assigned have been reassigned to groupings in accordance with the criteria in § 185.43(c)(1)–(3).

(ii) If the educational agency reassigns any student to a new grouping under paragraph (f)(3)(i) of this section, it shall also submit evidence that it has made provision for such transitional services as are necessary to enable the student to participate meaningfully in the educational program of the new grouping.

(Pub. Law 92–318, secs. 706(d)(1)–(3).)

(g) Access to information and records: Agencies applying for assistance under the Act or for a waiver under this section shall furnish to the Secretary or the Assistant Secretary such information and such access to their facilities or records as such official may deem necessary for the administration of the Act, or for a determination as to eligibility or as to whether or not a waiver should be granted. Consideration of applications for assistance under this part may be delayed pending submission or collection of such information. Such information may include confidential or other records maintained by such agency on personnel and students, with racial or other identification of such personnel or students, and financial and other records maintained by such agency. Subject to any applicable provisions of section 438 of the General Education Provisions Act (20 U.S.C. 1232g) as added by section 513 of P.L. 93–380 and amended by P.L. 93–568 and section 440 of such Act (20 U.S.C. 1232i) as added by section 515 of P.L. 93–380, limitations on access to information or records based on considerations of privacy or confidentiality may not operate to bar the Department from evaluating or seeking to enforce compliance with any provision of the Act, this regulation, grant terms or conditions, or other applicable laws. Information of a confidential nature obtained by the Department in connection with compliance evaluation or enforcement shall not be disclosed except where necessary in formal enforcement proceedings or as otherwise required by law. The Assistant Secretary shall not approve an application under this part which requires a waiver by the Secretary unless the Committee on Labor and Public Welfare of the Senate and the Committee on Education and Labor of the House of Representatives have been given notice of the intention to grant such a waiver at least 15 days prior to such approval.

(Public Law 92–318, sections 706(d) (2), (3), (5), and (6); Public Law 93-380, sections 513 and 515; Public Law 93–568)

House of Representatives have been given notice of the intention to grant such a waiver at least 15 days prior to such approval.

(Public Law 92-318, sections 706(d) (2), (3), (5), and (6)) [38 FR 3464, Feb. 6, 1973, as amended at 38 FR 21646, Aug. 10, 1973; 40 FR 25176, June 21, 1975]

§ 185.45 Termination of assistance.

(a) *Termination and suspension.* (1) Assistance under the Act may be terminated in whole or in part if the Assistant Secretary determines, after affording the recipient reasonable notice and an opportunity for a full and fair hearing, that the recipient has failed to carry out its approved program, project, or activity in accordance with the applicable law and the terms of such assistance, or has otherwise failed to comply with any applicable law, regulation, assurance, term, or condition. Assistance under the Act may be suspended during the pendency of a termination proceeding initiated pursuant to this paragraph: *Provided however,* That the recipient is afforded reasonable notice and opportunity to show cause why such action should not be taken.

(2) Proceedings with respect to the termination of assistance shall be initiated by mailing to the recipient a notice, by certified mail, return receipt requested, informing the recipient of the Government's intent to terminate assistance and of the specific grounds for such termination, together with information regarding the time, place, and nature of the hearing to be afforded the recipient, the legal authority and jurisdiction under which the hearing is to be held, and such other information with respect to the conduct of such proceedings as the Assistant Secretary may determine.

(3) If the Assistant Secretary determines for good cause that suspension of assistance during the pendency of such proceedings is necessary, such notice shall, in addition to the matters described in subparagraph (2) of this paragraph, inform the recipient of such determination and shall offer the recipient an opportunity to show cause why such action should not be taken. Such notice of suspension of assistance shall advise the recipient that any new expenditures or obligations made or incurred in connection with the program, project, or activity assisted during the period of the suspension will not be recognized by the Government in the event such assistance

is ultimately terminated. Expenditures to fulfill legally enforceable commitments made prior to the notice of suspension, in good faith and in accordance with the recipient's approved program, project, or activity, and not in anticipation of suspension or termination, shall not be considered new expenditures.

(4) Termination of assistance shall be effected by the delivery to the recipient of a final order of termination, signed by the Assistant Secretary or his designee, or upon an initial decision of an Administrative Law Judge becoming final without appeal to or review by the Assistant Secretary.

(5) In the event assistance is terminated under this section, financial obligations incurred by the recipient prior to the effective date of such termination will be allowable to the extent they would have been allowable had such assistance not been terminated, except that no obligations incurred during the period in which such assistance was suspended pursuant to subparagraph (1) of this paragraph and no obligations incurred in anticipation of such suspension or termination will be allowed. Within 60 days of the effective date of termination of assistance under this section, the recipient shall furnish to the Assistant Secretary an itemized accounting of funds expended, obligated, and remaining. Within 30 days of a request therefor, the recipient shall remit to the Government any amounts found due.

(6) The procedures and requirements set out in this section shall apply to any assistance awarded to any recipient under this part. Assistance shall not be deemed to have been awarded unless such award is supported by an award document on file with the Department.

(Public Law 92-318, sections 702-720; Public Law 93-380, section 511)

(b) *Additional sanctions.* In an appropriate case, such as one involving violations of the eligibility limitations set out in § 185.43 arising subsequent to approval of an application for assistance under this part or a failure to comply with the terms of a waiver granted pursuant to § 185.44 or other eligibility requirements, the Assistant Secretary shall declare the award of such assistance to be null and void as of the date of such violation or failure, and shall refuse to recognize any obligation incurred after such date or to reimburse the recipient for any costs incurred or expenditures made after such date, regardless of the date of obligation. Such sanctions shall be imposed in accordance with the provisions of this section.

(Public Law 92-318, sections 702-720; Senate Report No. 92-61, pp. 18, 41-42)

Such sanctions shall be imposed in accordance with the provisions of this section.

(Public Law 92-318, sections 706(d), 710 (a) and (b); Senate Report No. 92-61, pp. 18, 41-42)

(c) *Proceedings.* (1) If the recipient requests an opportunity to show cause why a suspension of assistance pursuant to paragraph (a)(1) of this section should not be imposed, the Assistant Secretary or his designee shall, within 7 days after receiving such request, hold an informal meeting for such purpose. After such meeting has been held, the Assistant Secretary or his designee shall promptly notify the recipient of his determination regarding suspension of assistance to the recipient.

(2) Hearings respecting the termination of assistance pursuant to this section shall be conducted pursuant to the provisions of the Administrative Procedure Act (5 U.S.C. 554-557). Proposed findings of fact, conclusions of law, and briefs will be submitted to the presiding officer within 20 days of the conclusion of the hearing.

(3) The initial decision of an Administrative Law Judge regarding the termination of assistance under the Act shall become the decision of the Assistant Secretary without further proceedings unless there is an appeal to, or review on motion of, the Assistant Secretary made in writing no later than 15 days after receipt (by the party requesting such appeal or review), of the decision of the Administrative Law Judge. A request for appeal or review under this section shall be accompanied by exceptions to the initial decision, proposed findings, supporting reasons, and briefs. The adverse party shall submit its reply no later than 15 days after its receipt of a copy of such request for appeal or review. The Assistant Secretary shall issue a final decision in the case of such appeal or review no later than 45 days after the final submission of the above materials by the parties. The Assistant Secretary may delegate his functions under this subparagraph to an appellate review council established and appointed by him.

(4) The procedures established by this section shall not preclude the Assistant Secretary from pursuing any other remedies authorized by law. Proceedings pursuant to Part 80 of this title with respect to the eligibility of an applicant for assistance under Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) shall be governed by the regulations in that part and Part 81 of this title.

(Public Law 92-318, sections 702-720; Public Law 93-380, section 511)

(d) *Effect of Federal action.* No official agent, or employee of the Department of Health, Education, and Welfare shall have the authority to waive or alter any provision of the Act or this regulation, or other relevant Act or regulation, and no action or failure to act on the part of such official, agent, or employee shall operate in derogation of the Assistant Secretary's enforcement of said provisions in accordance with their terms.

(43 Dec. Comp. Gen. 31 (1963))

[38 FR 3452, Feb. 6, 1973, as amended at 40 FR 25176, June 12, 1975]

§ 185.46 Determinations of ineligibility prior to award of assistance.

(a)(1) Upon a determination by the Assistant Secretary that an applicant for assistance under this part is ineligible for the assistance sought by such applicant, the Assistant Secretary shall notify the applicant in writing of such determination and the reasons therefor. (2) Such notification shall offer the applicant an opportunity to show cause why such determination should be revoked and its application considered for funding.

(b) If the applicant requests an opportunity to show cause why the determination of ineligibility referred to in paragraph (a)(1) of this section should be revoked and its application considered for funding, the Assistant Secretary or his designee shall, within 7 days after receiving such request, hold an informal meeting for such purpose. After such meeting has been held the Assistant Secretary or his designee shall promptly notify the applicant of his determination regarding the eligibility of the applicant.

(c) This section shall apply to determinations of ineligibility with respect to any applicant for assistance under this part. Except as provided in this section or as otherwise provided by law, the Assistant Secretary shall not be required to afford any such applicant an opportunity for hearing with respect to a determination of ineligibility referred to in paragraph (a)(1) of this section.

(Public Law 92-318, sections 702-720; Public Law 93-380, section 511)

[40 FR 25176, June 12, 1975]

§§ 185.47–185.50 [Reserved]

Subpart F—Bilingual Projects

SOURCE: 38 FR 10098, Apr. 24, 1973, unless otherwise noted.

§ 185.51 Eligibility for assistance.

(a) Any local educational agency which is implementing a plan or project described in § 185.11 or § 185.31(a) may apply for assistance, by grant or contract, from funds reserved pursuant to § 185.95(b)(2), (1) to develop educational programs designed (i) to meet the educational needs of minority group children who are from environments in which a dominant language is other than English for the development of reading, writing, and speaking skills in the English language and their primary language, and (ii) to meet the educational needs of such children and their classmates to understand the history and cultural background of the minority groups of which such children are members; or (2) to carry out activities authorized by § 185.12 to implement the educational programs described in this paragraph (whether or not developed with assistance made available under this subpart).

(20 U.S.C. 1607(c)(1) (B) and (C))

(b) Any nonprofit private agency, institution, or organization may apply for assistance, by grant or contract, under this subpart to develop the educational programs described in paragraph (a) of this section: *Provided however,* That such development is requested by one or more local educational agencies which are implementing a plan or project described in § 185.11 or § 185.31(a).

(20 U.S.C. 1607(c)(1)(A))

(c) For purposes of determining eligibility for assistance under this subpart, the Assistant Secretary may determine that members of any specific ethnic group with limited English-speaking ability constitute a "minority group," as that term is used in this subpart and in § 185.11, upon a finding that such group has been denied equal educational opportunity because of language barriers and cultural differences.

Applications for assistance under this subpart relating to local educational agencies which are implementing plans or projects described in § 185.11 or § 185.31(a) with respect to Negroes, American Indians, Spanish-surnamed Americans, Portuguese, Orientals, Alaskan natives, or Hawaiian natives shall be considered only on the basis of such plans or projects. No plan or project affecting a minority group other than those named in the preceding sentence shall be deemed to qualify an applicant for assistance under this subpart if it results in any increase in minority group isolation for any member of any minority group named in the preceding sentence.

(20 U.S.C. 1619(9)(A))

[40 FR 25176, June 13, 1975]

§ 185.52 Authorized activities.

(a) Funds made available under this subpart shall be used for the activities described in § 185.51, where such activities would not otherwise be funded and are designed to carry out the purposes described in § 185.01.

(20 U.S.C. 1607(c)(1))

(b) All applications for assistance under this subpart shall contain a plan for implementation of any educational program developed or proposed to be developed, whether or not assistance is sought for such implementation. No more than 25 per centum of the funds made available under this subpart shall be awarded for development activities pursuant to § 185.51(a)(1).

(20 U.S.C. 1607(c)(1))

(c) All applications for assistance under this subpart shall contain a plan for in-service training of teachers and other ancillary educational personnel in skills related to implementation of the educational programs described in § 185.51(a), including cultural awareness, oral or written language skills in a language other than English, and diagnostic evaluation and prescriptive teaching techniques.

(20 U.S.C. 1607(c)(1); Senate Rept. No. 92-61, p. 23)

(d) All programs, projects, or activities assisted under this subpart shall be specifically designed to complement any programs, projects, or activities assisted under subparts B and C of this part, or under title I or title VII of the Elementary and Secondary Education Act of 1965 or other programs of Federal financial assistance related to the purposes of this subpart.

(20 U.S.C. 1607(c)(3))

(e) Educational programs to be developed and implemented pursuant to §§ 185.51 (a)(1)(i) and (a)(2) shall provide for the participation of nonminority group children as well as those from minority groups, unless the applicant conclusively demonstrates that such participation will not contribute to the success of the proposed program, project, or activity. Educational programs to be developed and implemented pursuant to §§ 185.51 (a)(1)(ii) and (a)(2) shall provide for such participation. All applications for assistance under this subpart shall include activities with respect to the educational programs described in both §§ 185.51(a)(1) (i) and (ii).

(20 U.S.C. 1607(c)(1))

(f) The limitations on authorized activities set forth in §§ 185.12 (b), (c), and (d) shall apply to activities assisted under this subpart.

(20 U.S.C. 1601(b), 1606(a), 1607(c)(1))

§ 185.53 Applications.

(a) Application by local educational agencies for assistance under this subpart shall comply with the requirements of §§ 185.13 (a) through (n). Such applications, together with all correspondence and other written materials relating thereto, shall be made readily available to the public by the applicant and the Assistant Secretary.

(20 U.S.C. 1607(c)(1), 1609(a))

(b) Applications by nonprofit private agencies, institutions, or organizations shall comply with the requirements of §§ 185.63 (a), (b)(2), (b)(4), (b)(5), (b)(6), and (b)(7).

(20 U.S.C. 1607(c)(1))

(c) In addition to the assurances and information required by paragraph (a) or paragraph (b) of this section, applications for assistance under this subpart shall contain the following information:

(1) A description of the proposed program, project, or activity, and of such policies and procedures as will assure that the applicant will use funds received under the Act only for the activities described in § 185.52;

(2) In the case of nonprofit private applicants, evidence that the proposed activity has been requested by one or more local educational agencies which

are implementing a plan or project described in § 185.11 or § 185.31(a). Such evidence may include (i) a copy of a school board resolution or other final official action requesting the assistance of the applicant, or (ii) a letter from the school board chairman or superintendent of a local educational agency requesting such assistance. No application by a nonprofit private applicant shall be approved less than 10 days after a copy of said application has been submitted by the Assistant Secretary to the appropriate State educational agency for comment, unless the Assistant Secretary has received comments from such agency upon such application prior to expiration of the 10-day period.

(3) Information as to (i) the number and percentage of minority group children in the affected school district from environments in which a dominant language is other than English who receive instruction of any kind (prior to the application for assistance under this subpart) in such language, the average number of hours per day such instruction is provided, and the educational goals of such instruction; (ii) the extent to which minority group children are separated from nonminority group children by or within classes for any part of the day (*a*) for the provision of instructional or other services to such minority group children or (*b*) for purposes of ability grouping or homogeneous instruction, and the educational justification for such separation (including the information required by §§ 185.43(c) (1) through (4)); (iii) the extent to which materials utilized for reading instruction are varied (by primary language, subject matter, or intended level of instruction) as between the various schools in the affected school district, or between the various classrooms within such schools; and (iv) the amount of Federal funds, if any, applied for and received by the affected local educational agency for the current academic year under titles I, II, III, and VII of the Elementary and Secondary Education Act of 1965 and the Education Professions Development Act. The application shall specify the minority group of which such children are members.

(20 U.S.C. 1607(c) (1) and (8))

[38 FR 3452, Feb. 6, 1973, as amended at 40 FR 25177, June 13, 1975]

§ 185.54 Criteria for assistance.

(a) *Objective criteria.* In approving applications for assistance under this subpart, the Assistant Secretary shall apply the following objective criteria (55 points):

(1) The need for such assistance, as indicated by the number and percentage of minority group children enrolled in the schools of the local educational agency or agencies with respect to which assistance is sought for the fiscal year or years for which assistance is sought who are from environments in which a dominant language is other than English (30 points); and

(2) The effective net reduction or effective net prevention of minority group isolation, as defined in § 185.14(a) (2), in terms of the number and percentage of children affected, in all the schools operated by such agency or agencies accomplished or to be accomplished by the implementation of a plan described in § 185.11 or § 185.31(a) (25 points).

(20 U.S.C. 1607(c)(1))

(b) *Educational and programmatic criteria.* The Assistant Secretary shall determine the educational and programmatic merits of applications for assistance under this subpart on the basis of the following criteria (55 points):

(1) *Needs assessment (10 points).* (i) The severity of needs assessed by the applicant in relation to the inequality of educational opportunity available to minority group children who are from environments in which a dominant language is other than English, and (ii) the degree to which the applicant has demonstrated, by standardized achievement test data and other objective evidence, the existence of such needs.

(2) *Statement of objectives (6 points).* (i) The degree to which the applicant sets out specific measurable objectives for its program, project, or activity, in relation to the needs identified, and (ii) the degree to which (*a*) the program, project, or activity to be assisted promises realistically to address the needs identified in the application, and (*b*) such program, project, or activity involves to the fullest extent practicable the total educational resources, both public and private, of the community to be served.

(3) *Activities (28 points)*—(i) *Project design (12 points).* The extent to which (*a*) the proposed program, project, or activity provides for development and

implementation of the educational programs described in § 185.51(a) in an imaginative and sensitive manner; (*b*) the proposed services are concentrated upon a group of participants which is sufficiently limited and specific to give promise of measurable growth for each participant; (*c*) such services are sufficiently intensive to give promise of such growth; (*d*) the proposed program, project, or activity emphasizes individualized instruction and services; (*e*) the application includes innovative plans to meet the goals of the Act which extend instruction in language skills to other areas of the curriculum in an integrated setting, and which include nonminority group children in activities other than those relating to the educational programs described in § 185.51(a)(1)(ii); (*f*) the applicant proposes to extend bilingual/bicultural instructional techniques to academic areas other than those with respect to which assistance is made available; (*g*) students to be served are afforded an opportunity to contribute to, and suggest changes in, the proposed program, project, or activity; and (*h*) the proposed program, project, or activity makes use of existing bilingual/bicultural research and instructional materials;

(ii) *Staffing (10 points)*. The extent to which the application (*a*) sets out an adequate staffing plan which includes provisions for making maximum use of present staff capabilities; (*b*) provides for continuing training of staff in order to increase the effectiveness of the proposed program, project, or activity; and (*c*) proposes to utilize credentialed bilingual teachers and to provide career development opportunities for paraprofessional staff members with bilingual capabilities;

(iii) *Delivery of services (2 points)*. The extent to which the proposed program or project sets out a plan for meeting the logistical requirements of the proposed activities, including a description of adequate and conveniently available facilities and equipment; and

(iv) *Parent and community involvement (4 points)*. The extent to which the application (*a*) delineates specific opportunities for community and program or project committee participation in the development and implementation of the proposed program, project, or activity in addition to those required by § 185.55, and (*b*) includes evidence that such participation has been encouraged and has in fact occurred.

(4) *Resource management (5 points)*. The extent to which the application contains evidence that (i) the amount of funds requested is of sufficient magnitude in relation to the number of participants to be served to give substantial promise of achieving the stated objectives; (ii) the costs of project components are reasonable in relation to the expected benefits; (iii) all possible efforts have been made to minimize the amount of funds requested for purchase of equipment necessary for implementation of the proposed program, project, or activity; and (iv) the proposed program, project, or activity has been coordinated with existing programs and resources.

(5) *Evaluation (6 points)*. The extent to which the application sets out a format of objective, quantifiable measurement of the success of the proposed program, project, or activity in achieving the stated objectives, including (i) a timetable for compilation of data for evaluation and a method of reviewing the program, project, or activity in the light of such data; (ii) a description of instruments to be used for evaluation of the proposed program, project, or activity (and of the method for validating such instruments where necessary), or a description of the procedure to be employed in selecting such instruments; (iii) an assessment of the validity of such instruments when used to evaluate the language skills, academic aptitude, or general intelligence of children whose primary language is other than English; and (iv) provisions for comparison of evaluation results with norms, control group performance, results of other programs, or other external standards.

(6) In making the determinations required under this paragraph, the Assistant Secretary is authorized to purchase or utilize the services, recommendations, and advice of experts in the areas of education and human relations from the Department, other Federal agencies, State or local governmental units, or the private sector.

(20 U.S.C. 1601(b), 1607(c)(1), 1607(c)(2)(A)(ii)(II), 1607(c)(3), 1609(a)(11).)

(c) *Funding criteria and procedures.* The provisions of § 185.14(c) shall apply to awards of assistance under this subpart, except that:

(1) References in § 185.14(c) to "this subpart" shall be understood to refer to Subpart F—Bilingual Projects;

(2) References in § 185.14(c) to "this section" shall be understood to refer to § 185.54;

(3) References in § 185.14(c) to a "State" shall be understood to refer to the 50 States and the District of Columbia, taken together; and

(4) The minimum points referred to in subparagraph (2) of § 185.14(c) shall, for the purpose of this subpart, be 45 on the basis of the criteria in paragraphs (a) and (b) of this section, and 33 on the basis of the criteria in § 185.54(b).

(20 U.S.C. 1601; 1603(b)(A); 1607(c); 1609(d)(2).)

§ 185.55 Program or project committees.

(a) *Local educational agencies*—(1) *Consultation; public hearing; publication.* Local educational agencies applying for assistance under this subpart shall comply with the requirements as to advisory committee participation and public hearings set forth in § 185.41 (a), (b), (e), and (f). For purposes of this subparagraph, references in such paragraphs to a "district-wide advisory committee" shall be understood to refer to the program or project committee required by this paragraph.

(2) *Composition of committee.* (i) In order to establish a program or project committee as required by this paragraph, a local educational agency shall designate at least five civic or community organizations, each of which shall select a member of the committee. The civic or community organizations which participate in the selection process shall, when taken together rather than considered individually, be broadly representative of the minority and nonminority communities to be served by the proposed program, project, or activity.

(ii) Such agency shall, after consultation with the appropriate teachers' organization(s), either (*a*) designate two classroom teachers, one of whom is a member of the minority group whose educational needs the proposed program, project, or activity is designed to meet, to serve as members of the committee required by this paragraph, or (*b*) delegate the responsibility for such selections to the appropriate teachers' organization(s).

(iii) Such agency shall designate two administrators or school board members, one of whom is a member of a minority group as described in subdivision (ii) of this subparagraph, to serve as members of the committee required by this paragraph.

(iv) At least 50 per centum of the members of a committee formed under this subparagraph must be members of a minority group as described in subdivision (ii) of this subparagraph. At least 50 per centum of the members of the committee shall be parents of children directly affected by the program, project or activity for which assistance is sought. In addition to members appointed pursuant to paragraph (a)(2) (i), (ii), and (iii) of this section, and taking into account the students to be appointed pursuant to paragraph (a)(2)(v) of this section, such agency shall select the minimum number of additional persons as may be necessary to meet the requirements of this division.

(v) Committee members appointed pursuant to paragraphs (a)(2) (i), (ii), (iii), and (iv) of this section shall select at least two secondary students, half of whom are members of a minority group as described in paragraph (a)(2)(ii) of this section, to serve as members of the committee required by this paragraph. Such students shall be regularly enrolled in a secondary school or schools operated by the local educational agency.

(3) *Approval by committee.* No application by a local educational agency for assistance under this subpart shall be approved which is not accompanied by the written comments of a committee formed in accordance with paragraph (a)(2) of this section, indicating that a majority of the members of such committee have approved the program, project, or activity set forth in such application.

(4) *Comments and suggestions by committee.* No amendment to the program, project, or activity of a local educational agency assisted under this subpart shall be approved, and no additional funds made available under this subpart, unless the members of a committee formed in accordance with paragraph (a)(2) of this section have been involved in the development of, and a majority of such

members has approved, such amendment of or addition to the program, project, or activity. Comments indicating such approval shall be included with any application submitted by such agency for such amendments or additions. Amendments or additions suggested by the committee required by this paragraph shall be forwarded by the local educational agency, with or without comment by such agency, to the Assistant Secretary for his consideration.

(5) *Student advisory committees.* The local educational agency shall comply with the requirements of § 185.41(h) as to student advisory committees, except that at least 50 per centum of the members of each such committee shall be members of a minority group as described in subparagraph (2)(ii) of this paragraph: *Provided, however,* That if such agency is receiving assistance under subpart B, C, or D as of the date specified in § 185.41(h)(1), and if members of such a minority group have been selected as members of such committees at the appropriate secondary schools, such committees shall be deemed to comply with the requirements of this subparagraph.
(20 U.S.C. 1607(c)(2)(A)(i), 1607(c)(2)(B))

(b) *Nonprofit private applicants*—(1) *Consultation; publication.* Nonprofit private agencies, institutions, or organizations applying for assistance under this subpart shall comply with the requirements of §§ 185.65 (a), (d), and (e). For purposes of this subparagraph, references in such paragraphs to a "districtwide advisory committee" shall be understood to refer to the program or project board required by this paragraph. Applications submitted by nonprofit private applicants shall describe in detail how such program or project boards will exercise policymaking authority with respect to the proposed program, project, or activity.

(2) *Composition of board.* (i) In order to establish a program or project board as required by this paragraph, the applicant shall designate at least 5 civic or community organizations, each of which shall select a member of the board. The civic or community organizations which participate in the selection process shall, when taken together rather than considered individually, be broadly representative of the minority and nonminority communities to be served.

(ii) The applicant shall invite the appropriate local educational agency to designate as members of the board described in this subparagraph a classroom teacher and an administrator or school board member, one of whom is a member of a minority group as described in paragraph (a)(2)(ii) of this section.

(iii) At least 50 per centum of the members of the board formed under this subparagraph must be members of a minority group as described in paragraph (a)(2)(ii) of this section. Such board shall have at least 10 members. At least 50 per centum of the members of such board shall be parents of children directly affected by a plan or project described in § 185.11 or § 185.31(a), or a program, project, or activity assisted under this subpart. In addition to members appointed pursuant to paragraph (b)(2)(i) and (ii) of this section, and taking into account the students to be appointed pursuant to paragraph (b)(2)(iv) of this section, the applicant shall select the minimum number of additional persons as may be necessary to meet the requirements of this division.

(iv) Board members appointed pursuant to paragraphs (b)(2)(i), (ii), and (iii) of this section shall select at least two secondary school students, half of whom are members of a minority group as described in paragraph (a)(2)(ii) of this section, to serve as members of the board required by this paragraph. Such students shall be regularly enrolled in a secondary school or schools operated by the appropriate local educational agency.

(3) *Approval by board.* No application for assistance under this subpart shall be approved which is not accompanied by the written comments of a board formed in accordance with paragraph (b)(2) of this section, indicating that a majority of the members of such board have approved the program, project, or activity set forth in such application.

(4) *Comments and suggestions by board.* No amendment to a program, project, or activity assisted under this subpart shall be approved, and no additional funds made available under this subpart, unless the members of such board have been involved in the development of, and a majority of such members has approved, such amendment of or addition to such program, project, or activity. Comments indicating such approval shall be included with any application submitted by such applicant for such amendments or additions. Amendments or additions suggested by the board required

by this paragraph shall be forwarded by the applicant, with or without comment, to the Assistant Secretary for his consideration.

(20 U.S.C. 1607(c)(2)(A)(ii)(I), 1607(c)(2)(B))

(c) *Provision of information*. To the extent possible, applicants for assistance under this subpart shall cause the publications required by this section, and the materials required to be furnished to the committees or boards established pursuant to this section, to be made available both in the English language and in the dominant language of the appropriate minority group as described in paragraph (a)(2)(ii) of this section.

(20 U.S.C. 1607(c)(2))

[38 FR 3452, Feb. 6, 1973, as amended at 40 FR 25177, June 12, 1975]

§ 185.56 Limitations on eligibility; nonpublic participation.

The limitations on eligibility set forth in § 185.43 shall apply to local educational agencies applying for, or requesting that a nonprofit private agency, institution, or organization apply for, assistance under this subpart. The provisions of § 185.44 as to waiver of ineligibility shall apply to such local educational agencies. The provisions of § 185.45 as to termination of assistance shall apply to all recipients of assistance under this subpart. The provisions of § 185.42 as to participation of children or staff enrolled in or employed by nonpublic schools shall apply to local educational agencies applying for assistance under this subpart.

(20 U.S.C. 1605(d), 1607(c)(1), 1609 (a) and (b), 1611(c))

[40 FR 25177, June 12, 1975]

§§ 185.57–185.60 [Reserved]

Subpart G—Public or Nonprofit Private Organizations

§ 185.61 Eligibility for assistance.

(a) *Eligible applicants*. (1) Any public agency, institution, or organization (other than a local educational agency) and any nonprofit private agency, institution, or organization may apply for assistance, by grant or contract, from funds reserved pursuant to § 185.95(d)(1)(i) to carry out programs, projects, or activities designed to support the development or implementation of a plan or project described in § 185.11 or § 185.31(a).

(2) Any such agency, institution, or organization (other than a local educational agency or a nonpublic elementary or secondary school) may apply for such assistance from funds reserved pursuant to § 185.95(d)(1)(ii) to carry out such programs, projects, or activities.

(Public Law 92-318, sections 705(a)(3) and 708(b); Public Law 93-380, section 645)

(b) *Nonprofit status*. A nonprofit agency, institution, or organization, for purposes of this section, means any organization owned and operated by one or more corporations or associations no part of whose net earnings may lawfully inure to the benefit of any private shareholder or individual. Any of the following shall be acceptable evidence of nonprofit status:

(1) A reference to the organization's listing in the Internal Revenue Service's most recent cumulative list of organizations described in section 501(c)(3) of the Internal Revenue Code as tax exempt;

(2) A copy of a currently valid Internal Revenue Service tax exemption certificate;

(3) A statement from a State taxing body or the State attorney general certifying that the organization is a nonprofit organization operating within the State and that no part of its net earnings may lawfully inure to the benefit of any private shareholder or individual;

(4) A certified copy of the organization's certificate of incorporation or similar document if it clearly establishes the nonprofit status of the organization; or

(5) Any of the evidence described in subparagraphs (1) through (4) of this paragraph which applies to a State or national parent organization, and a statement by the parent organization that the applicant organization is a local nonprofit affiliate.

(Public Law 92-318, sections 708(b), 720(11); HEW Grants Administration Manual, Chapter 1-00-30)

(c) *Form of organization*. Agencies, institutions, or organizations assisted under this subpart may be any form of legally cognizable entity. Nonprofit corporations are the preferred form of organization.

(Public Law 92-318, section 708(b))

(d) *Relation to local educational agency*. (1) A program, project, or activity designed to support the implementation of a plan or project described in § 185.11 or § 185.31(a) may be assisted under this subpart if the local educational agency with respect to which the applicant proposes to carry out its program, project, or activity is implementing such a plan or project, regardless of whether such local educational agency applies for or receives assistance under the Act.

(2) A program, project, or activity designed to support the development of a plan or project described in § 185.11 may be assisted under this subpart without regard to whether the local educational agency with respect to which the applicant proposes to carry out its program, project, or activity applies for or receives assistance under the Act: *Provided, however*, That such local educational agency has requested such support in the development of such a plan or project.

(Public Law 92–318, section 708(b))

[38 FR 3452, Feb. 6, 1973 as amended at 40 FR 25177, June 12, 1975]

§ 185.62 Authorized activities.

Financial assistance under this subpart shall be available for programs or projects which would not otherwise be funded and which involve activities designed to support the development or implementation of a plan or project described in § 185.11 or § 185.31(a) and to carry out the purposes described in § 185.01. Such programs or projects shall include one or more of the following activities:

(a) Supplemental remedial services beyond those provided by the local educational agency, including student to student tutoring, to meet the special needs of children (including gifted or talented children) in schools which are affected by a plan or project described in § 185.11 or § 185.31(a) when such services are necessary to the success of such plan or project;

(b) Educational programs beyond those offered by the local educational agency for career orientation;

(c) Innovative interracial educational enrichment programs or projects beyond those offered by the local educational agency, involving the joint participation of minority group children and other children attending different schools and, where appropriate, the parents of such children;

(d) Community activities, including public information and parental involvement efforts, regarding matters related to a plan or project described in § 185.11 or § 185.31(a);

(e) Administrative and auxiliary services to facilitate the success of the applicant's program or project, where such services are part of, and in conjunction with, a comprehensive program or project designed to support the development or implementation of a plan or project described in § 185.11 or § 185.31(a);

(f) Programs to prepare preschool or school-age children and, where appropriate, the parents of such children, for the experience of desegregation or of elimination or reduction of minority group isolation in the schools of the local educational agency;

(g) Programs designed to deal with the problems of dropouts, academic failures, and increased suspensions or expulsions resulting from or attendant to the implementation of a plan or project described in § 185.11 or § 185.31(a);

(h) Interracial programs or projects relating to the social and recreational needs of children attending schools affected by a plan or project described in § 185.11 or § 185.31(a);

(i) Cultural enrichment activities which promote interracial and intercultural understanding among children attending schools affected by a plan or project described in § 185.11 or § 185.31(a) and, where appropriate, the parents of such children;

(j) Home-focused projects for the enrichment of the educational atmosphere in the homes of children attending schools affected by a plan or project described in § 185.11 or § 185.31(a), including parent-child home reading projects and school-related family or neighborhood activities;

(k) At the request of a local educational agency, assistance or support in the development of a plan or project described in § 185.11 or § 185.31(a); or

(l) Special programs or projects of exceptional merit or promise which the Assistant Secretary determines will make substantial progress toward achieving the purposes set out in § 185.01.

(Public Law 92–318, section 708(b))

[38 FR 3452, Feb. 6, 1973, as amended at 40 FR 25178, June 12, 1975]

§ 185.63 Applications.

(a) *Basic assurances.* Applications for assistance under this subpart shall comply with the requirements of §§ 185.13(a), 185.13(b), 185.13(c), 185.13(d), 185.13(f), 185.13(h), 185.13(k)(1) (i) and (ii), 185.13(k)(2), and 185.13(m).

(b) *Additional assurances.* Applications for assistance under this subpart shall contain the following additional assurances and information:

(1) A description of the proposed program, project, or activity, and of such policies and procedures as will insure that the applicant will use funds received under the Act only for the activities set forth in § 185.62;

(2) An assurance that funds made available to the applicant under the Act, will be so used (i) as to supplement and, to the extent practicable, increase the level of funds that would, in the absence of funds under the Act, be available from non-Federal sources for the purposes of the program for which assistance is sought; and (ii) in no case, as to supplant such funds from non-Federal sources;

(3) (i) An assurance that the appropriate local educational agency has been given at least 15 days to offer recommendations to the applicant with respect to such application and to submit comments to the Assistant Secretary; (ii) a statement indicating the local official or agency to whom the proposed program, project, or activity has been submitted for such recommendations or comment, and the date of such submission; and (iii) a description of the provisions which have been made for effective liaison with such agency with regard to operation of the proposed program, project, or activity and coordination of such program, project, or activity with similar or related efforts of such agency. No application for assistance under this subpart shall be approved less than 10 days after a copy of such application has been submitted by the Assistant Secretary to the appropriate State educational agency for comment, unless the Assistant Secretary has received comments from such agency upon such application prior to expiration of the 10-day period.

(4) A statement of (i) the extent to which other public or nonprofit private agencies, institutions, or organizations in the school district or school districts affected by a plan or project described in § 185.11 or § 185.31(a) have been consulted in the preparation of the application, and (ii) the provisions which have been made by the applicant for effective liaison with such agencies, institutions, or organizations which have applied for, or received, assistance under the Act, with regard to coordination of programs, projects, or activities so assisted.

(5) A copy of the charter, articles of incorporation, bylaws, or other legal documents indicating the nature and purpose of the applicant, including evidence of nonprofit status as described in § 185.61(b);

(6) A statement of past activities engaged in by the applicant or its officers or employees in the appropriate school district with respect to such matters as education, human relations, desegregation or elimination, reduction, or prevention of minority group isolation in public elementary or secondary schools or other community activities or concerns; and

(7) A copy of the plan or project described in § 185.11 or § 185.31(a) with respect to which assistance is sought under this subpart or a complete description of such plan or project.

(Public Law 92–318, section 708(b))

[38 FR 3452, Feb. 6, 1973, as amended at 25178, June 12, 1975]

§ 185.64 Criteria for assistance.

(a) *Objective criteria.* In approving applications for assistance under this subpart, the Assistant Secretary shall apply the following objective criteria (40 points):

(1) The number and percentage of minority group children enrolled in the schools operated by the local educational agency or agencies with respect to which the applicant proposes to carry out its program project, or activity for the fiscal year or years for which assistance is sought (15 points);

(2) The effective net reduction or effective net prevention of minority group isolation (in terms of the number and percentage of children affected), as defined in § 185.14(a)(2), in all the schools operated by such agency or agencies accomplished or to be accomplished by the implementation of the plan or project described in § 185.11 or § 185.31(a) with respect to which assistance is sought by the applicant (25 points).

(Public Law 92–318, section 708(b))

(b) *Educational and programmatic criteria.* The Assistant Secretary shall determine the educational and programmatic merits of applications for assistance under this subpart on the basis of the following criteria (45 points):

(1) *Needs assessment (6 points).* (i) The degree to which the applicant has cooperated with, or complemented the

efforts of, the appropriate local educational agency, in assessing the needs of the community with respect to desegregation or the elimination, reduction, or prevention of minority group isolation; and

(ii) The magnitude of needs assessed by the applicant, and the degree to which the applicant has demonstrated, by objective evidence, the existence of such needs.

(2) *Statement of objectives* (*6 points*). (i) The degree to which the applicant sets out specific, measurable objectives for its program, project, or activity, in relation to the needs identified; and

(ii) The degree to which (*a*) the program, project, or activity to be assisted affords promise of achieving the objectives specified in the application, and (*b*) such program, project, or activity involves to the fullest extent practicable the total educational and social resources already existing in the community, including those of other public or nonprofit private agencies, organizations, or institutions which are eligible for assistance under the Act.

(3) *Activities* (*21 points*). (i) *Project design* (*8 points*). The extent to which the proposed program or project sets out activities clearly related to the needs identified and the stated objectives, which activities (*a*) complement activities being carried out by the local educational agency, under the Act or otherwise; (*b*) represent a cooperative or integrated effort among all the public or nonprofit private agencies, organizations, or institutions in the community; (*c*) present an opportunity for interracial or intercultural involvement of students, parents, and personnel of the appropriate local educational agency; (*d*) promote interracial or intercultural understanding in the community; (*e*) present an opportunity for increased communication between parents and the school system; and (*f*) utilize students' homes as a focal point for program or project operations.

(ii) *Staffing* (*3 points*). The extent to which (*a*) the proposed program or project sets out a plan to attract and hire qualified staff members and personnel; (*b*) qualified applicants residing in the community to be served are given priority for employment over other applicants; and (*c*) provision is made for adequate training of staff members and other personnel, both salaried and volunteer.

(iii) *Delivery of services* (*4 points*). The extent to which the proposed program or project (*a*) describes available facilities which are adequate for the performance of the proposed activities and are convenient and accessible to the persons involved in such activities; and (*b*) provides for effective notification of and communication with the intended beneficiaries of proposed activities, events, and services.

(iv) *Parent and community involvement* (*6 points*). The extent to which the application for assistance (*a*) reflects efforts to include persons broadly representative of the community to be served as members of the advisory committee established pursuant to § 185.65(a), and to utilize the contributions of such persons who are concerned with the problems of education and desegregation or the elimination, reduction, or prevention of minority group isolation; (*b*) delineates specific responsibilities for the advisory committee in addition to those required in § 185.65(d); and (*c*) sets forth procedures for involving parents and residents of the community to the maximum extent possible in all aspects of the proposed program, project, or activity.

(4) *Resource management* (*6 points*). The extent to which the application contains evidence that (i) the amount of funds requested is of sufficient magnitude to give substantial promise of achieving the stated objectives; (ii) the costs of project components are reasonable in relation to the expected benefits; and (iii) all possible efforts have been made to minimize the amount of funds requested for purchase of equipment necessary for implementation of the proposed program, project, or activity.

(5) *Evaluation* (*6 points*). The extent to which the application sets out a format for objective measurement of the results of the proposed program, project, or activity, including (i) a timetable for compilation of data for evaluation and a method of reviewing the program, project, or activity in the light of such data; (ii) a description of the instruments to be used for evaluation of the proposed program, project, or activity (and of the method for validating such instruments where necessary), or a description of the procedure to be employed in selecting such instruments; and (iii) provisions for comparison of evaluation results with norms, control

group performance, results of other programs, or other external standards.

(6) In making the determinations required under this paragraph, the Assistant Secretary is authorized to purchase or utilize the services, recommendations, and advice of experts in the areas of education and human relations from the Department, other Federal agencies, State or local governmental units, or the private sector.

(c) *Funding criteria and procedures.* The provisions of § 185.14(c) shall apply to awards of assistance under this subpart, except that:

(1) References in § 185.14(c) to "this subpart" shall be understood to refer to Subpart G—Public or Nonprofit Private Organizations; and

(2) References in § 185.14(c) to "this section" shall be understood to refer to § 185.64.

(Public Law 92–318, sections 708; 706(a)(8), (b)(8); 708(b).)

§ 185.65 Advisory committees.

(a) *Consultation with advisory committee.* An agency, institution, or organization applying for assistance under this subpart shall, prior to submission of such an application, consult with a districtwide advisory committee formed in accordance with paragraph (b) of this section in identifying problems and assessing the needs to be addressed by such application. Such applicant shall afford such committee a reasonable opportunity (not less than 10 days) in which to review and comment upon such application, and shall establish such committee at least 5 days prior to the commencement of such review period. In connection with the establishment of such committee, such applicant shall furnish to each member of such committee a copy of the Act and this regulation.

(Public Law 92–318, section 708(b).)

(b) *Composition of committee.* (1) In order to establish a districtwide advisory committee as required by this section, the applicant shall designate at least five civic or community organizations, each of which shall select a member of the committee. The civic or community organizations which participate in the selection process shall, when taken together rather than considered individually, be broadly representative of the minority and nonminority communities to be served.

(2) The applicant shall invite the appropriate local educational agency to designate as a member of the committee described in this paragraph at least one person who is an administrator, principal, or teacher employed by such agency or a member of the school board of such agency. In addition, if the local educational agency has applied for or received assistance under this part, the applicant shall invite the advisory committee formed by such agency in accordance with § 185.41(c) to designate at least one of its members as a member of the committee described in this paragraph. (An advisory committee established in accordance with § 185.41(c), with the appropriate additions required to conform to the provisions of this paragraph, may be adopted by the applicant as the committee required by this section.)

(3) A committee formed under this paragraph must be composed of equal numbers of nonminority group members and of members from each minority group substantially represented in the community or in the student body of the appropriate local educational agency. At least 50 per centum of the nonstudent members of such committee shall be parents of children directly affected by a plan or project described in § 185.11 or § 185.31(a). In addition to

members appointed to the committee by civic or community organizations, and those selected pursuant to subparagraph (2) of this paragraph, the applicant shall select the minimum number of additional persons as may be necessary to meet the requirements of this subparagraph.

(4) In addition to the persons selected by the applicant pursuant to subparagraph (3) of this paragraph, the applicant shall select from the schools of the appropriate local educational agency equal numbers of nonminority group secondary students and of such students from each minority group substantially represented in the community, so that the number of such students so selected will constitute 50 percent of the total membership of such committee.

(Public Law 92-318, section 708(b))

(c) *Comments of committee.* No application for assistance under this subpart shall be approved which is not accompanied by the written comments on a committee formed in accordance with paragraph (b) of this section. No amendment to a program, project, or activity assisted under this subpart shall be approved, and no additional funds made available, unless such committee has been consulted and involved in the development of, and has been given an opportunity to comment upon, such amendment of or addition to such program, project, or activity. Such comments shall be included with any application submitted by such applicant for such amendments or additions.

(Public Law 92-318, section 708(b))

(d) *Post-award consultation.* Each application for assistance under this subpart shall contain an assurance that the applicant will consult at least once a month with its districtwide advisory committee established under this section with respect to policy matters arising in the administration and operation of any program, project, or activity for which funds are made available under this subpart, and that it will provide such committee with a reasonable opportunity to periodically observe and comment upon all project-related activities.

(Public Law 92-318, section 708(b))

(e) *Publication.* The names of the members of the districtwide advisory committee established in accordance with paragraph (b) of this section, and a statement of the purpose of such committee, shall be published in a newspaper of general circulation or otherwise made public prior to submission of an application for assistance under this subpart. Evidence of such publication shall be submitted with such application for assistance.

(Public Law 92-318, section 708(b))

[38 FR 3452, Feb. 6, 1973, as amended at 40 FR 25178, June 12, 1975]

§§ 185.66–185.70 [Reserved]

Subpart H—Educational Television

Source: 40 FR 25178, June 12, 1975, unless otherwise noted.

§ 185.71 Eligibility for funds.

(a) Any public or private nonprofit agency, institution, or organization with the capability of providing expertise in the development of television programming and with access to facilities necessary for such development may apply for a contract from funds reserved pursuant to § 185.95(b)(3) to pay the cost of development and production of integrated children's television programs of cognitive and affective educational value. For purposes of this subpart, "programs of cognitive and affective educational value" are those which teach concrete academic skills and encourage interracial and interethnic understanding.

(20 U.S.C. 1610(a), (b)(1); Senate Rept. No. 92-61, p. 24)

(b) No more than ten contracts shall be awarded pursuant to this subpart during any fiscal year.

(20 U.S.C. 1610(b)(1).)

§ 185.72 Authorized activities and areas of concern.

(a) Funds made available under this subpart shall be used to pay the normal and necessary expenses of researching, planning, writing, editing, staging, directing, performing, producing, reproducing, and distributing integrated children's television programs where such activities would not otherwise be funded and are designed to carry out the purposes described in § 185.01. Such programs shall compose television series of standard length programs in any fiscal year from one or more of the following categories as announced each year in the Federal Register:

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(1) Additional programs of a national series (i.e., intended for national distribution) previously assisted under the Act (other than a series described in subparagraph (a)(6) of this section);

(2) A national series (i.e., intended for national distribution) other than a series described in subparagraphs (a)(1) and (a)(6) of this section, to improve the cognitive skills of minority and nonminority groups elementary school age children in one or more areas, such as mathematics, science, social studies, or language;

(3) A national series (i.e., intended for national distribution) other than a series described in subparagraphs (a)(1) and (a)(6) of this section, to improve the cognitive skills of minority and nonminority group secondary school age children in one or more areas, such as mathematics, science, social studies, or language;

(4) A national series (i.e., intended for national distribution) other than a series described in subparagraphs (a)(1) and (a)(6) of this section, to foster interracial and inter-ethnic understanding among elementary school age children;

(5) A national series (i.e., intended for national distribution) other than a series described in subparagraphs (a)(1) and (a)(6) of this section, to foster interracial and inter-ethnic understanding among secondary school age children;

(6) A national bilingual series of cognitive and/or affective education value for elementary school age children (i.e., intended for national distribution). A bilingual series is a series consisting of programs which contain no more than 60 percent of its content in one of the two languages it offers;

(7) Up to three new "regional" series intended for less than nationwide utilization meeting the special needs of subgroups of minority groups as defined in § 185.02(f) which may be unique to a particular geographic region; or

(8) Additional programs from up to two "regional" series previously funded under the Act intended for less than nationwide utilization meeting the special needs of subgroups of minority groups as defined in § 185.02(f) which may be unique to a particular geographic region.

(20 U.S.C. 1610(b)(1).)

(b)(1) No more than one contract for a standard-length series shall be awarded for any one of the areas of concern described in subparagraphs (a)(1), (2), (3), (4), (5), and (6) of this section in any fiscal year, and no more than a maximum of five contracts shall be awarded for "regional" programming as described in subparagraphs (a)(7) and (a)(8) of this section in any fiscal year, unless the Assistant Secretary determines that the proposals pending before him for additional contracts for programming directed to the same area of concern are of exceptional merit or promise.

(2) No more than one contract shall be awarded for television programming directed to a particular racial or ethnic group in a particular geographical area in any fiscal year, unless the Assistant Secretary determines that the proposals pending before him for additional contracts for programming directed to the same group in the same area are of exceptional merit or promise.

(3) No contract awarded for "regional" programming as described in subparagraph (a)(7) and (8) of this section shall exceed $300,000 in amount.

(20 U.S.C. 1610(b)(1).)

(c)(1) Television programs developed in whole or in part with funds made available under this subpart shall be made reasonably available for transmission, free of charge, and shall not be transmitted under commercial sponsorship. Broadcast and nonbroadcast users of such programs may not be charged any cost beyond (i) the cost of tape duplication and, (ii) where there is a contract between a recipient and a talent union as described in subparagraph (c)(2) of this section, the cost of payments to members of such talent union for usages beyond those usages specified in such contract.

(2) Any contract between a recipient of funds under this subpart and a talent union must allow at least the following usages of the television programs assisted (except in cases where the Assistant Secretary finds that the cost of such usages would be excessive and authorizes lesser usages), charges for which may not be passed on to users:

(i) Six years of usage by public television stations (a year of usage being defined, for this purpose, as unrestricted use during three separate weeks of any given program within a series);

(ii) One broadcast by any single commercial television station (in addition to the commercial station broadcasts in (iv) of this subparagraph) where there is no public television station serving that station's coverage area or where all public television stations serving that station's coverage area have exercised a right of first refusal;

(iii) Twelve years of unrestricted use in in-school audio-visual contexts, including transmission by education-dedicated, local origination CATV channels and Instructional Television Fixed Service systems; and

(iv) One broadcast in each of two three-year periods over commercial stations in any coverage area, including network originated broadcasts;

(3) Arrangements for making the television programs developed with funds under this subpart reasonably available for transmission, free of charge, shall be undertaken by the recipient and shall be subject to the approval of the Assistant Secretary; however, the Assistant Secretary may in addition assume responsibility for making such arrangements if such action is deemed appropriate. A recipient may not restrict usages, except as provided in subparagraph (c)(1) of this section or by an agreement giving exclusivity to the first station in a coverage area the right to broadcast a program, (whether or not the result of a network origination), until the thirteenth week following the week in which each such program is first broadcast.

(4) For purposes of this paragraph, where the costs of transmission are met by a commercial firm, a brief statement to that effect at the beginning or end of such transmission shall not be considered commercial sponsorship.

(5) No television program developed in whole or in part with funds made available under this subpart shall be used or transmitted in such a manner as to result in a financial benefit to any person or organization.

(20 U.S.C. 1610(b)(2); Senate Rept. No. 92-61, pp. 24–25)

(d) Funds made available under this subpart shall not be used for construction, repair, or remodeling of any building or facility, or for the purchase of any equipment which has a useful life of more than one year and is not consumed in use, except where it can be demonstrated that the purchase of specific items of equipment will cost less than their rental. For purposes of this paragraph, "construction, repair, or remodeling" includes construction of buildings and facilities and structural alterations, renovations, and remaking of existing buildings and facilities or space therein.

(20 U.S.C. 1610(b)(1))

(e) *Deliverables*. Recipients of funds under this subpart must produce the following items, of which those described in subparagraphs (3), (4), (6), and (7) must be provided to the Assistant Secretary at intervals specified by the Assistant Secretary, and of which those described in subparagraphs (1), (2) (except for one dub which may be retained by the recipient), (5), and (8) must be provided to the Assistant Secretary at the conclusion of the recipient's production activity:

(1) One master two-inch color highband videotape of each production in the series;

(2) Four first generation two-inch color highband videotape dubs of each production in the series (except that only two dubs shall be required for programming described in § 185.72(a) (7) and (8));

(3) One three-quarter-inch cassette tape of each production in the series;

(4) One three-quarter-inch cassette tape of a pilot production;

(5) Three one-minute promotional spots, with a 30-second liftout of each, to be delivered as:

(i) A composite tape of all six spots on a two-inch highband color, master videotape;

(ii) Four composite tapes of all six spots as first generation two-inch highband color, videotape dubs (except that only two tapes shall be required for programming described in § 185.72(a) (7) and (8));

(iii) A three-quarter inch composite videotape of all six spots;

(6) Five copies of teacher guide material consisting of one typewritten page in final form for each production;

(7) Five copies of pilot production test results; and

(8) One set of final scripts.

(20 U.S.C. 1610(b)(1))

(f) *Disclaimer*. Each program in a series assisted under this subpart must carry the following disclaimer: "This program was produced by (Name of Recipient) under a contract from the U.S. Department of Health, Education, and Welfare, Office of Education. The content of this program is the responsibility of the contractor and no official endorsement by the Department, or the Office of Education, is to be inferred." Such language reflects the position of the Assistant Secretary.

(20 U.S.C. 1610(b)(1))

§ 185.73 Proposals.

(a) *General*. (1) A proposer for a contract under this subpart for any fiscal year shall submit to the Assistant Secretary a proposal therefor for that fiscal year, which proposal shall be in a form specified by the Assistant Secretary and shall contain such information and set forth such policies and procedures as will assure that the proposer will use funds received under this subpart only for the activities described in § 185.72.

(2) The proposal must make provision for production of prototypical pilot materials.

(20 U.S.C. 1610(b)(1))

(b) *Basic assurances*. Proposals for funds under this subpart shall comply with the requirements of § 185.13 (b), (c), (d), (f), (h), (k)(1) (i) and (ii), (k)(2), and (m).

(20 U.S.C. 1609(a), 1610(b)(1))

(c) *Assurances by local educational agencies.* Proposals by local educational agencies for funds under this subpart shall comply with the requirements of § 185.13 (a), (g), (i), (j), (k)(1)(iii), (k)(3), (l), and (n), in addition to the requirements specified in paragraphs (b) and (e) of this section. Such proposals, together with all correspondence and other written materials relating thereto, shall be made readily available to the public by the proposer and the Assistant Secretary.

(20 U.S.C. 1609(a), 1610(b)(1))

(d) *Assurances by other proposers.* Proposals by public or private nonprofit agencies, institutions, or organizations (other than local educational agencies) under this subpart shall comply with the requirements of § 185.63(b) (2) and (5) in addition to the requirements specified in paragraphs (b) and (e) of this section.
(20 U.S.C. 1610(b)(1))

(e) *Additional information and assurances.* Proposals for funds under this subpart shall contain the following information, in addition to the assurances and information required by the other applicable paragraphs of this section:

(1) A detailed description of the integrated children's television programs to be developed and produced with funds made available under this subpart, together with an identification of the audience to be reached by such programs and a statement of the educational and other gains to be achieved;

(2) A statement of the name, address, position, duties, prior experience in educational television and school and community affairs, and race of all persons permanently employed (or to be employed) in positions of responsibility by the proposer on the development, production, and administrative staffs of the project;

(3) A detailed description of the evaluation procedures to be employed by the proposer pursuant to § 185.77 in measuring and evaluating the program appeal of, and the educational and other changes to be achieved by, the television programs for which funds are sought;

(4) A statement of (i) past activities engaged in by the proposer or its officers or employees indicating the relative capability of the proposer to provide expertise in the development of integrated children's television programing, and to develop and produce the proposed television programs, and (ii) the access of the proposer to facilities necessary for such development and production;

(5) A budget detailing all costs of the proposed project; and

(6) For programing described in § 185.72(a)(1) and (8), a three-quarter inch videotape cassette of two programs previously assisted if of half-hour or quarter-hour length, or one program previously assisted if of one hour length.

(20 U.S.C. 1610(b)(1) and (3))

(f) *Proposal procedure.* The Assistant Secretary may require the information described in this section to be submitted either in a single proposal or sequentially, and may require additional information and assurances of selected proposers.
(20 U.S.C. 1610(b)(1))

§ 185.74 Criteria for awards.

In reviewing and approving proposals for contracts under this subpart, the Assistant Secretary shall apply the following criteria:

(a) *Needs assessment (10 points).* The extent to which the proposer has undertaken a comprehensive assessment, on the basis of test data, audience surveys, and other objective evidence, of the educational and other needs of the target population, and the magnitude of the needs so assessed.
(20 U.S.C. 1610(b)(1))

(b) *Statement of objectives (15 points).* The degree to which the proposer sets forth specific objectives which:

(1) articulate with the needs described by the proposer in its proposal;

(2) are capable of attainment through the proposed television series; and

(3) are shown to have been derived by persons possessing relevant professional and experiential background, and who include, to a significant degree, persons representative of the racial and ethnic populations to be served by the series.
(20 U.S.C. 1610(b)(1), 1610(b)(3)(A))

(c) *Activities (66 points)*—*(1) Program content and design (40 points).* The extent to which the proposed television programming promises to reach the expected or potential target audience and to encourage and sustain the participation, interest, and educational and other growth of such audience, and the extent to which the programming can stand by itself as effective instruction without the necessity for teacher assistance;

(2) *Staffing (19 points).* (i) The extent to which the proposal sets out an overall staff plan clearly delineating positions and responsibilities and maximizing staff capabilities;

(ii) The extent to which minority group persons will occupy key creative, administrative and executive decision-making project positions; and

(iii) The extent to which provision is made for on-the-job training, in full-time positions over the entire project period, to enable such trainees to become qualified to assume positions of technical and professional responsibility;

(3) *Supplementary materials (2 points).* The extent to which the proposal sets forth a plan for developing a guide which will provide teachers employing the series in classroom work with suggestions for varied, realistic and effective ancillary classroom activity; and

(4) *Advisory committee participation (5 points)*. The extent to which the proposal (i) clearly delineates specific opportunities for continuing advisory committee participation in the development and evaluation of the proposed television programming in addition to those required by § 185.75, and (ii) includes evidence that such participation has been encouraged and has in fact occurred.
(20 U.S.C. 1610(b)(1), 1610(b)(3)(A))

(d) *Scheduling (4 points)*. The quality of a detailed flow chart or milestone chart, submitted with the proposal, of activities sufficient to accomplish all proposed tasks. (20 U.S.C. 1610(b)(1))

(e) *Formative evaluation (5 points)*. The extent to which the proposal sets out a detailed format, including specific study design, for applying formative evaluation techniques prior to and during a pilot phase of production of the proposed television programming, in order to determine the production and presentation techniques which offer the greatest promise of achieving the stated objectives.
(20 U.S.C. 1610(b)(1), 1610(b)(3)(C))

(f) *Funding criteria*. In determining amounts to be awarded to proposers for funds under this subpart, the Assistant Secretary shall consider the additional cost to each proposer (as such cost is defined in § 185.13(a)) of effectively developing and producing its proposed television programming, in relation to the amount of funds available under this subpart and the other proposals for such funding pending before him. The Assistant Secretary shall not be required to approve any proposal which does not meet the requirements of the Act or this part, or which sets forth proposed television programming of such insufficient promise for achieving the purposes of the Act that its approval is not warranted, or which sets forth projected costs that are unreasonable in relation to projected outcomes, or which is not supported by a record of past activities engaged in by the proposer or its officers or employees indicating capability for implementing the proposal. In applying the criterion set out in this paragraph, the Assistant Secretary shall award funds to proposers (whose proposals meet such requirements and are of sufficient promise to warrant approval) in order of their ranking on the basis of the criteria set out in this section until the sums available for the purposes of this subpart have been exhausted.
(20 U.S.C. 1610(b)(1))

(g) In making the determinations required under this section, the Assistant Secretary is authorized to purchase or utilize the services, recommendations, and advice of experts in the areas of education, educational television, and human relations from the Department, other Federal agencies, State or local governmental units, or the private sector.
(20 U.S.C. 1610(b) (1) and (3))

§ 185.75 Advisory committees.

(a) Public or private nonprofit agencies, institutions, or organizations (other than local educational agencies) submitting proposals for contracts under this subpart shall comply with the requirements as to advisory committee participation set forth in § 185.65, except as follows:

(1) References in said section to a "district-wide advisory committee" shall be understood to be references to an advisory committee representing the entire area to be served by the proposed television programming, and references in said section to a "program, project, or activity" shall be understood to refer to the proposed television programming for which funds are sought.

(2) (i) The requirements of § 185.65(b) shall not apply to proposals submitted under this subpart. References in § 185.65 to paragraph (b) of said section shall be understood to refer to the provisions of this subparagraph (2).

(ii) A proposer shall designate at least five civic or community organizations, each of which shall select a member of the proposer's advisory committee. The civic or community organizations which participate in the selection process shall, when taken together rather than considered individually, be broadly representative of the minority and nonminority communities to be served.

(iii) A committee formed under this paragraph must be composed of equal numbers of nonminority group members and of members from each minority group substantially represented in the area to be served by the proposed television programming. At least 50 percent of the nonstudent members of such committee, to be selected by the proposer, shall be parents of children at whom the proposed television programming for which funds are sought will be directed.

(iv) Where the proposed television programming will be directed at secondary school age students, at least 50 percent of the total membership of the committee, to be selected by the proposer, must be secondary school students enrolled in a secondary school or schools located within the area to be served by the proposed television programming. Among such student members there must be equal numbers of nonminority group persons and persons from each minority group substantially represented in the area to be served by the proposed television programming.

(3) The post-award consultation described in § 185.65(d) shall be at least once every three months.

(20 U.S.C. 1610(b)(1))

(b) Local educational agencies submitting proposals for contracts under this subpart shall comply with the requirements as to advisory committee participation and public hearings set forth in § 185.41 (a) through (g), except as follows:

(1) References in said section to a "district-wide advisory committee" shall be understood to be references to an advisory committee representing the entire area to be served by the proposed television programming, and references in said section to a "program, project, or activity" shall be understood to refer to the proposed television programming for which funds are sought.

(2) The designation of teachers pursuant to § 185.41(c)(2) and students (who must be designated only where the proposed television programming will be directed at secondary school age students) pursuant to § 185.41(c)(4) shall be with reference to the entire area to be served by the proposed television programming.

(3) The post-award consultation described in § 185.41(e) shall be at least once every three months.

(20 U.S.C. 1609(a) (2) and (8), 1609(b))

§ 185.76 Limitations on eligibility.

The limitations on eligibility set forth in § 185.43 shall apply to educational agencies submitting proposals for funds under this subpart. The provisions of § 185.44 as to waiver of ineligibility shall apply to local educational agencies submitting proposals for funds under this subpart. The provisions of § 185.45 as to termination of assistance shall apply to all recipients of assistance under this subpart.

(20 U.S.C. 1605(d), 1609 (a) and (b), 1610 (b)(1))

§ 185.77 Required approval by Assistant Secretary of pilot materials.

A recipient of funds under this subpart must produce prototypical pilot materials at times specified by the Assistant Secretary. A recipient of funds for additional programs of a series previously assisted under the Act may use for this purpose a program produced with its most recent assistance. The recipient must then conduct an evaluation of such materials to serve as the formative evaluation of the series. No commitments by the recipient relating to production activity beyond the conduct of this evaluation will be recognized by the Assistant Secretary unless a favorable decision on project continuation is made by the Assistant Secretary. Any party with whom the recipient enters into a commitment for such production activity prior to such a favorable decision must be informed of this possibility of non-recognition at the time the commitment is entered into. An unfavorable decision on project continuation shall be a basis for termination pursuant to § 185.45.

(20 U.S.C. 1609(a)(15), 1610(b)(1), 1610(b)(3)(C).)

§§ 185.78–185.80 [Reserved]

Subpart I—Evaluation

SOURCE: 38 FR 10103, Apr. 24, 1973, unless otherwise noted.

§ 185.81 Eligibility for awards.

Any State educational agency, institution of higher education, or private agency, organization, or institution (including an advisory committee established by a local educational agency pursuant to § 185.37, § 185.41, § 185.55(a), § 185.75(b), or § 185.94) may submit a proposal for a contract, from funds reserved pursuant to § 185.95(b)(4), for the purpose of evaluating specific programs or projects assisted under this part.

(20 U.S.C. 1612)

§ 185.82 Authorized activities.

Funds awarded pursuant to this subpart shall be used to pay the normal and necessary expenses of planning, instrument development and administration, executing statistical designs (including randomization and controls), data collection and analysis, and reporting incident to evaluation of programs, projects, or activities assisted under this part, as well as overall management of such evaluations, where such expenses would not otherwise be funded.

(20 U.S.C. 1612)

§ 185.83 Proposals.

(a) *Information*. Proposals submitted pursuant to this subpart shall contain such information, and set forth such policies and procedures, as will assure that the offeror will use funds received under this subpart only for the activities described in § 185.82. In addition, such proposals shall contain the following information:

(1) A detailed description of the objectives of the proposed evaluation, as they relate to the purposes set forth in § 185.01;

(2) A detailed description of the technical approach, management plan, statistical design (including appropriate randomization and controls), and techniques of data collection, analysis, and synthesis to be utilized or employed in the proposed evaluation;

(3) A statement of the name, position, race, and prior relevant experience of all persons permanently employed (or to be employed) in positions of responsibility by the offeror in connection with the proposed evaluation; and

(4) A statement of past activities engaged in by the offeror or its officers or employees indicating the relative capability of the offeror to conduct the proposed evaluation.

(20 U.S.C. 1612)

(b) *Procedures*. (1) Proposals under this subpart shall be submitted in response to requests for proposals. The Assistant Secertary may require the information described in this section to be submitted either in a single document or sequentially, and may require additional information and assurances of selected offerors.

(2) Contracts under this subpart shall be subject to the requirements of the Federal Procurement Regulations (41 CFR Ch. 1 and 3), to the extent that such regulations are not inconsistent with the provisions of this subpart.

(20 U.S.C. 1612)

[38 FR 3452, Feb. 6, 1973, as amended at 40 FR 25181, June 12, 1975]

§ 185.84 Criteria for awards.

(a) The Assistant Secretary shall determine the merits of proposals submitted under this subpart on the basis of the following criteria;

(1) *Statement of objectives*. The degree to which the offeror sets out specific objectives for the proposed evaluation, in relation to the purposes described in § 185.01, as demonstrated by background discussion and objective analysis included in its proposal;

(2) *Technical approach*. The extent to which the proposal sets out a technical approach which promises to achieve the stated objectives;

(3) *Management plan*. The extent to which the proposal sets out a plan for effective management of the proposed evaluation, including a specific timetable for completion of project components and specific staff assignments;

(4) *Data techniques*. The extent to which the proposal sets out effective techniques for collection, analysis, and synthesis of data in connection with the proposed evaluation;

(5) *Staff capabilities*. The extent to which the proposal demonstrates (i) the presence or availability of staff members with relevant technical and management experience, and (ii) past experience on the part of the offeror or its officers or employees in conducting evaluations similar to that for which funds are requested;

(6) *Resource management*. The extent to which the proposal contains evidence that (i) the amount of funds requested is of sufficient magnitude to give substantial promise of achieving the stated objectives; (ii) the costs of project components are reasonable in relation to the expected benefits; and (iii) provisions have been made for maximum utilization of existing facilities and resources; and

(7) *Scope*. The extent to which the offeror proposes an evaluation of sufficient comprehensiveness to insure results of general applicability and reliability.

(8) In making the determinations required under this paragraph, the Assistant Secretary is authorized to purchase or utilize the services, recommendations, and advice of experts in the areas of education, evaluation, and human relations from the Department, other Federal agencies. State or local governmental units, or the private sector.

(20 U.S.C. 1612)

(b) *Funding criteria*. In awarding contracts under this subpart, the Assistant Secretary shall apply the provisions of the Federal Procurement Regulations (41 CFR Ch. 1 and 3), except that he shall not be required to approve any proposal which does not meet the requirements of the Act or this subpart, or which sets forth a proposed evaluation of such insufficient promise for achieving the purposes of the Act that its approval is not warranted. From the funds reserved pursuant to § 185.95(b)(4) for any fiscal year, the Assistant Secretary may award one or more contracts under this subpart.

(20 U.S.C. 1612)

[38 FR 3452, Feb. 6, 1973, as amended at 40 FR 25181, June 12, 1975]

§ 185.85 Limitations on eligibility.

The limitations on eligibility set forth in § 185.43 shall apply to educational agencies submitting proposals under this subpart.

(20 U.S.C. 1605(d))

§§ 185.86–185.90 [Reserved]

Subpart J—Special Projects

SPECIAL ARTS PROJECTS

SOURCE: 40 FR 21881, June 12, 1975, unless otherwise noted.

§ 185.91 Eligibility for assistance.

(a) Any public agency or organization responsible for the administration of statewide public arts programs, such as a State Arts Council or State Arts and Humanities Commission, may apply for assistance by grant from funds reserved pursuant to § 185.95(b)(1) for special projects that would through the arts provide opportunities for interracial and intercultural communication and understanding to help meet the special needs incident to the implementation of a plan or project described in § 185.11 or § 185.31(a). Activities assisted under this section must be conducted primarily with students who attend schools affected by such plan or project, in which the proportion of minority group children enrolled is no less than 20 percent. Such schools must be located in local educational agencies which are in compliance with the requirements described in § 185.43 or § 185.44.

(b) No more than $1,000,000 from funds reserved pursuant to § 185.95(b)(1) shall be awarded for grants pursuant to this section during any fiscal year.

(20 U.S.C. 1605(d) and 1607(a))

§ 185.91-1 Applications.

(a) Applications by public agencies or organizations pursuant to § 185.91 shall comply with the requirements of § 185.13 (a), (b), (c), (d), (f), (g), (h), (j), (k)(1)(i), (k)(1)(ii), (k)(2) and (m). Applications submitted by public agencies or organizations which are local educational agencies shall also comply with the requirements of § 185.13 (e), (i), (k)(3), (l), and (n). The provisions of § 185.42 as to participation of children or staff enrolled in or employed by nonpublic schools shall apply to local educational agencies applying pursuant to § 185.91. All applications for assistance under § 185.91, together with all correspondence and other written materials relating thereto, shall be made readily available to the public by the applicant and by the Assistant Secretary.

(20 U.S.C. 1605(d), 1607(a), 1609(a))

(b) In addition to the information and assurances required by paragraph (a) of this section, applications by public agencies and organizations pursuant to § 185.91 shall contain the following information:

(1) A letter from each local educational agency implementing a plan or project described in § 185.11 or § 185.31(a) in which the applicant proposes to conduct activities which gives evidence that the local educational agency has reviewed the proposed project and has agreed to participate in the program activities, if funded, and which contains a list of those schools operated by such local educational agency which would be served by the applicant's proposed activities;

(2) A copy of the plan or project described in § 185.11 or § 185.31(a) for each local educational agency which the applicant proposes to serve unless such local educational agency has previously applied for assistance under the Act;

(3) A statement, signed by the appropriate official of each local educational agency in which the applicant proposes to conduct activities, that such local educational agency is in compliance with the requirements described in § 185.43 or § 185.44;

(4) A statement of the name, position, and prior experience in education, the arts, and interracial/intercultural relations of the State level project director employed (or to be employed) by the applicant in connection with the proposed activities;

(5) A copy of the statutory provision, State executive order or other evidence establishing the status of the applicant agency as a public agency or organization responsible for the administration of statewide public arts programs.

(20 U.S.C. 1607(a), 1609(a))

§ 185.91-2 Criteria for assistance.

(a) *Objective criteria.* In approving applications for assistance pursuant to § 185.91, the Assistant Secretary shall apply the following criterion: the need for such assistance, as indicated by the number and percentage of minority group children within the State in which the applicant is located (10 points).

(20 U.S.C. 1607(a), 1609(c)(1))

(b) *Educational and programmatic criteria.* The Assistant Secretary shall determine the educational, artistic, and programmatic merits of applications for assistance by public agencies or organizations pursuant to § 185.91 on the basis of the following criteria (90 points):

(1) *Needs assessment (14 points).* The magnitude of needs, in the schools to be served, assessed jointly by the applicant and the appropriate local educational agency or agencies, for intercultural/interracial arts activities as such activities relate to the special needs incident to the implementation of a plan or project described in § 185.11 or § 185.31(a).

(2) *Statement of objectives (10 points).* (i) The degree to which the applicant sets out specific measurable objectives for its activities in relation to the needs identified (5 points); and (ii) the degree to which the activities to be assisted afford promise of achieving the objectives identified in the application (5 points).

(3) *Activities (55 points).* (i) *Project design (20 points).* The extent to which the proposed activities are clearly related to the needs identified and to the stated objectives, which activities (*a*) complement activities being carried out by the appropriate local educational agency or agencies (5 points); (*b*) provide opportunities for artists to assist students in the development of artistic expression (5 points); (*c*) provide opportunities for artists to create, and arts groups to present, activities that promote interracial and intercultural understanding (5 points); and (*d*) provide opportunities for the artists to serve as a resource to the appropriate school, local educational agency, and community (5 points).

(ii) *Staffing (20 points).* At a minimum, the proposed activities must set out a plan to utilize qualified minority group artists and arts groups. Points will be awarded on the basis of the extent to which the application demonstrates that: (*a*)(*1*) at least 50% of the artists and art group members (when taken together as a group) to be utilized by the applicant are minority group members (5 points); and (*a*)(*2*) the proportion of members of each minority group among such artists and art groups (when taken together as a whole) represents the proportion of such minority groups in the minority population of the State in which the applicant is located (5 points); (*b*) qualified artists and art groups who have demonstrated the ability to work effectively with students and teachers in interracial/intercultural educational settings will be utilized (5 points); (*c*) the presence or availability of a State level project director with experience in education, the arts, and interracial/intercultural relations is indicated (3 points); and (*d*) adequate training and orientation will be provided for students, teachers, and other educational personnel in the uses of artists and arts experiences, and for artists in the need of students, teachers and administrators (2 points).

(iii) *Delivery of services (10 points).* The extent to which the proposed activities (*a*) involve to the fullest extent practicable the total educational and artistic resources already existing in the community or communities to be served, including those of other public or nonprofit private agencies, organizations, or institutions (2 points); (*b*) describe available facilities which are adequate for the performance of the proposed activities and are convenient and accessible to the persons involved in such activities (2 points); (*c*) provide for effective notification of and communication with the intended beneficiaries of proposed activities (2 points); (*d*) give evidence of coordination with, and mutual support of, the State education agency's arts education programs (2 points); and (*e*) give evidence that they will be documented so that successful models can be replicated (2 points). For purposes of this subdivision, "community or communities to be served" shall mean the community or communities in which are located local educational agencies in which activities are to be conducted with assistance made available under § 185.91.

(iv) *Parent and community involvement (5 points).* The extent to which the application (*a*) provides for increased communication between parents and the school system (2 points); and (*b*) provides for specific opportunities for community and parental participation in the implementation of the proposed activities in addition to those required by § 185.91-3 (3 points).

(4) *Resource management (6 points).* The extent to which the application contains evidence that (i) the amount of funds requested is of sufficient magnitude to give substantial promise of achieving the stated objectives (2 points); (ii) the costs of project components are reasonable in relation to the expected benefits (2 points); and (iii) all possible efforts have been made to minimize the amount of funds requested for purchase of equipment necessary for implementation of the proposed activities (2 points).

(5) *Evaluation (5 points).* The extent to which the application sets out a format for objective measurement of the results of the proposed activities, including (i) a timetable for compilation of data for evaluation and a method of reviewing the activities in the light of such data (2 points); and (ii) a description of the instruments to be used for evaluation of the proposed activities, or a description of the procedure to be employed in selecting such instruments (3 points).

(6) In making the determinations required under this paragraph the Assistant Secretary is authorized to purchase or utilize the services, recommendations, and advice of experts in the areas of the arts, education, and human relations from the Department, other Federal agencies, State or local governmental units, or the private sector.

(c) *Funding criteria.* In determining amounts to be awarded to applicants for assistance pursuant to § 185.91 the Assistant Secretary shall consider the additional cost to each applicant (as such cost is defined in § 185.13(a)) of effectively carrying out its proposed activities, in relation to the amount of funds available for assistance pursuant to § 185.91 and the other applications for such assistance pending before him. The Assistant Secretary shall not be required to approve any application which does not meet the requirements of the Act or this part, or which sets forth activities of such insufficient promise for achieving the purposes of the Act that its approval is not warranted. In applying the criterion set out in this paragraph, the Assistant Secretary shall award funds to applicants (whose applications meet such requirements and are of sufficient promise to warrant approval) in the order of their ranking on the basis of the criteria set out in this section. Awards of assistance made pursuant to § 185.91 will be limited to an approximate range of $50,000 to $100,000. No more than one award of assistance pursuant to § 185.91 will be made for activities in any State.

(20 U.S.C. 1601(b), 1607(a), 1609(c) (1), (2), (4), and (6))

§ 185.91-3 Community involvement.

(a) *Advisory committee.* A public agency or organization applying for assistance pursuant to § 185.91 shall, prior to submission of such an application, consult with a State level advisory committee formed in accordance with paragraph (b) of this section in identifying problems and assessing the needs to be addressed by such application. Such applicant shall afford such committee a reasonable opportunity (not less than 10 days) in which to review and comment upon such application, and shall establish such committee at least 5 days prior to the commencement of such review period. In connection with the establishment of such committee, the applicant shall furnish to each member of such committee a copy of the Act and this regulation.

(20 U.S.C. 1607(a))

(b) *Composition.* (1) In order to establish a State level advisory committee as required by this section, the applicant shall designate four State level civic or community organizations (which, when taken together rather than considered individually, are broadly representative of the minority and nonminority communities in the State), one State level teacher organization, and one State level parent organization, each of which shall select one member of their organization to serve as a member of the State level advisory committee. In addition the applicant shall designate a State level student organization or organizations to select student members so that the membership of the State level advisory committee will include one nonminority group student and one student from each minority group substantially represented in the State.

(2) The State level advisory committee formed pursuant to paragraph (a) of this section must be composed of equal numbers of nonminority group members and of members from each

minority group substantially represented in the State, including at least one member with arts or arts related experience. In addition to members selected pursuant to subparagraph (1), the applicant shall select the minimum number of additional persons as may be necessary to meet the requirements of this subparagraph.

(20 U.S.C. 1607(a))

(c) *Public hearing and publication.* Public agencies or organizations applying for assistance pursuant to § 185.91 shall hold at least one open, public hearing with parents, teachers, and secondary school students, including but not limited to the members of a committee formed in accordance with paragraph (b) of this section, at which hearing such persons are afforded a full opportunity to understand the activities for which assistance is being sought and to offer recommendations thereon. Such hearing shall be held no less than 7 days prior to submission of an application under the Act, and shall be advertised in a newspaper of statewide circulation or otherwise made public not less than 7 days prior to the date of such hearing. Such publication shall include the names of the members of the State level advisory committee established pursuant to paragraph (a) of this section and a statement of the purpose of such committee. Evidence of such publication and a copy of the minutes of the hearing required by this paragraph shall be submitted with such agency's application for assistance. At a minimum, such minutes shall include a statement of the date, time and location of such hearings, the number of persons in attendance, and a brief summary (not a verbatim transcript) of the views expressed at such hearing.

(20 U.S.C. 1607(a))

(d) *Comments and suggestions by advisory committee.* No application for assistance pursuant to § 185.91 shall be approved which is not accompanied by the written comments of a committee formed in accordance with paragraph (b) of this section. No amendment to activities assisted under § 185.91 shall be approved, and no additional funds made available, unless such committee has been consulted and involved in the development of, and has been given an opportunity to comment upon, such amendment of or addition to such activities. Such comments shall be included with any application submitted by such applicant for such amendments or additions.

(e) *Post-award consultation.* Each application for assistance pursuant to § 185.91 shall contain an assurance that the applicant will consult at least monthly with its State level advisory committee established under this section with respect to policy matters arising in the administration and operation of any activities for which funds are made available under § 185.91, and that the applicant will provide such committee with a reasonable opportunity to periodically observe and comment upon all such activities.

(20 U.S.C. 1607(a))

SPECIAL MATHEMATICS PROJECTS

§ 185.92 Eligibility for assistance.

Any private, nonprofit agency, institution, or organization, or a combination of such agencies, institutions, or organizations, may submit an application for a grant from sums reserved pursuant to § 185.95(b)(1) for the conduct, in cooperation with one or more local educational agencies implementing a plan or project described in § 185.11 or § 185.31 (a), of special programs for the teaching of standard mathematics to both minority and nonminority group children attending schools affected by such a plan or project in which the proportion of minority group children enrolled is no less than 20 percent. Such special programs shall consist of instruction in advanced mathematics by qualified instructors with bachelor degrees in mathematics or the mathematical sciences from colleges or other institutions of higher education, or with equivalent experience. A cooperating local educational agency must be in compliance with the requirements described in § 185.43 or § 185.44.

(20 U.S.C. 1605(d) and 1607(a)(3))

§ 185.92-1 Authorized activities.

Funds made available for special mathematics projects described in § 185.92 may be used for compensation for instructors described in said section, purchase of textbooks, materials, and supplies necessary to conduct the instructional program, rental of space and equipment, compensation for auxiliary personnel, and administrative costs. Such funds shall not be used for construction, repair or remodeling of any building or facility, or for the purchase of any equipment which has a useful life of more than one year and is not consumed in use, except where it can be demonstrated that the purchase of specific items of equipment will cost less than their rental. For purposes of this section, "construction, repair, or remodeling" includes construction of buildings and facilities and structural alterations, renovations, and remaking of existing buildings or space therein.

(20 U.S.C. 1607(a)(3))

§ 185.92-2 Applications.

(a) Applications for funds for special mathematics projects shall comply with the requirements of § 185.63, except as follows:

(1) The term "activities set forth in § 185.62" in § 185.63(b)(1) shall be understood to refer to activities set forth in § 185.92-1;

(2) The statement of past activities required by § 185.63(b)(6) shall be supplemented by a statement of past activities engaged in by the applicant or its officers or employees with respect to mathematics and to the teaching thereof; and

(3) The phrase "under this subpart" in § 185.63(b)(7) shall be understood to mean "under § 185.92".

(b) All applications for assistance under § 185.92 together with all correspondence and other written materials relating thereto, shall be made readily available to the public by the applicant and by the Assistant Secretary.

(c) In addition to the information and assurances required by paragraph (a) of this section, applications shall contain the following:

(1) A letter from each local educational agency with which the applicant proposes to conduct activities, indicating that the local educational agency has reviewed the proposed project and the application and has agreed to participate in the program activities, if funded, and containing a list of those schools within such local educational agency which are eligible for assistance pursuant to § 185.92 and whose students are to participate in the project.

(2) A statement, signed by an authorized official of each local educational agency with which the applicant proposes to conduct activities, that such local educational agency is in compliance with the requirements described in § 185.43 or § 185.44.

(20 U.S.C. 1605(d), 1607(a)(3), 1609(a))

§ 185.92-3 Criteria for assistance.

(a) *Educational and programmatic criteria.* The Assistant Secretary shall determine the educational and programmatic merits of applications for funds for special mathematics projects on the basis of the following criteria:

(1) *Needs assessment (10 points).* (i) The magnitude of needs in the schools to be served, assessed jointly by the applicant and the appropriate local educational agency or agencies, for special programs for the teaching of advanced mathematics within multi-ethnic classroom situations as such programs relate to the special needs incident to the implementation of a plan or project described in § 185.11 or § 185.31(a) (5 points);

(ii) The degree to which the applicant has demonstrated, by standardized achievement test data or other objective evidence, the existence of such needs (5 points).

(2) *Statement of objectives (10 points).* (i) The degree to which the applicant sets out specific measurable objectives for its project in relation to the needs identified (5 points) and (ii) the degree to which the project to be assisted affords promise of achieving the objectives specified in the application (5 points).

(3) *Activities (50 points).* (i) *Project design (30 points).* (*a*) The extent to which the proposed project sets out activities clearly related to the needs identified and to the stated objectives, (*b*) the extent to which the proposal demonstrates that the use of techniques in advanced mathematics will result in the successful teaching of standard mathematics to the intended beneficiaries, (*c*) the extent to which the project fits into the overall goals of the mathematics program within the individual schools to be served, (*d*) the extent to which the applicant demonstrates a coordinated effort on the part of the applicant and the local educational agency or agencies to be served in the development and planning of the proposed project, (*e*) the extent to which the proposed project is sufficiently concentrated and specific as to give promise of measurable growth for each participant, and (*f*) the extent to which the proposed project will be adaptable to

the individual needs of students and will allow for flexibility in approach based on an ongoing assessment of project goals and the progress of individual students.

(ii) *Staffing (10 points)*. The extent to which the proposed project (*a*) provides for a multi-ethnic staffing plan so that the instructional staff implementing the project reflects the racial and ethnic composition of the student body, (*b*) includes provisions for making maximum use of present staff capabilities, (*c*) provides for qualified (beyond the extent required pursuant to § 185.92) instructors to implement the program, and (*d*) provides adequate training and orientation for students, teachers, and other educational personnel with regard to the proposed project.

(iii) *Delivery of services (5 points)*. The extent to which the proposed project (*a*) sets out a plan for meeting the logistical requirements of the proposed activities including a description of adequate and conveniently available facilities and equipment and (*b*) involves to the fullest extent practicable the total educational resources already existing in the community or communities to be served.

(iv) *Parent and community involvement (5 points)*. The extent to which the application provides for specific opportunities for community and parental participation in the implementation of the proposed project in addition to those required by § 185.92–4.

(4) *Resource management (6 points)*. The extent to which the application contains evidence that (i) the amount of funds requested is of sufficient magnitude to give substantial promise of achieving the stated objectives; (ii) the costs of project components are reasonable in relation to the expected benefits; and (iii) the project includes activities of modest to average cost.

(5) *Evaluation (10 points)*. The extent to which the application sets out a format for objective, quantifiable measurement of the success of the proposed project in achieving the stated objectives, including (i) a timetable for compilation of data for evaluation and a method of reviewing the project in the light of such data; (ii) a description of instruments to be used for evaluation of the proposed project (and of the method for validating such instruments where necessary), or a description of the procedure to be employed in selecting such instruments; and (iii) provisions for comparison of evaluation results with norms, control group performance, results of other programs, or other external standards; and (iv) the extent to which the applicant provides for effective collection and organization of information on the educational results of the proposed project.

(6) In making the determinations required under this paragraph the Assistant Secretary is authorized to purchase or utilize the services, recommendations, and advice of experts in the areas of mathematics, education, and human relations from the Department, other Federal agencies, State or local governmental units, or the private sector.

(b) *Funding criteria*. In determining amounts to be awarded to applicants for assistance pursuant to § 185.92 the Assistant Secretary shall consider the additional cost to each applicant (as such cost is defined in § 185.13(a)) of effectively carrying out its proposed project in relation to the amount of funds available for assistance pursuant to § 185.92 and the other applications for such assistance pending before him. The Assistant Secretary shall not be required to approve any application which does not meet the requirements of the Act or this part, or which sets forth a project of such insufficient promise for achieving the purposes of the Act that its approval is not warranted. In applying the criterion set out in this paragraph, the Assistant Secretary shall award funds to applicants (whose applications meet such requirements and are of sufficient promise to warrant approval) in the order of their ranking on the basis of the criteria set out in this section. However, in determining the amount of assistance to be awarded to applicants described in § 185.92, the Assistant Secretary may consider whether there is, or is expected to be, pending before him an application submitted pursuant to § 185.91, § 185.93, or § 185.94 which meets the requirements of the Act and this part and which sets forth a project of sufficient promise for achieving the purposes of the Act that its approval is warranted.

(20 U.S.C. 1601(b), 1607(a)(3), 1609(c)(1), (2), (4), and (6))

§ 185.92–4 Community involvement.

Applicants shall comply with the requirements for advisory committee participation set forth in § 185.65. Where the primary area to be served by the project is larger than that of one local educational agency, members of the advisory committees required by this section, and civic or community organizations designated to select such members, shall be selected to represent the larger area to be served.

(20 U.S.C. 1607(a)(3))

SPECIAL STUDENT CONCERNS PROJECTS

§ 185.93 Eligibility for assistance.

(a) Any public agency or organization (or a combination of such agencies or organizations) other than a local educational agency may apply for assistance by grant from funds reserved pursuant to § 185.95(b)(1) for the conduct of special student concerns projects designed to eliminate the disproportionately high incidence of suspension, expulsion, and other disciplinary action involving minority group students in the schools of cooperating local educational agencies. Projects must be conducted in cooperation with one or more local educational agencies implementing a plan or project described in § 185.11 or § 185.31(a). Cooperating local educational agencies must be in compliance with the requirements described in § 185.43 or § 185.44.

(b) No more than one-half of one percent of the funds appropriated under the Act for any fiscal year shall be awarded pursuant to this section.

(20 U.S.C. 1605(d), 1607(a))

§ 185.93–1 Authorized activities.

A grant for a special student concerns project described in § 185.93 must be used both for the cost of activities described in paragraph (a) of this section and the cost of activities described in paragraph (b) of this section, as follows:

(a) Identifying probable causes of, and formulating remedial action for, the disproportionately high incidence of suspension, expulsion, and other disciplinary action involving minority group students enrolled in the schools of the cooperating local educational agency or agencies. Such activities may include, but are not limited to, the following:

(1) Analysis of the cooperating local educational agencies' student enrollment and absentee files, suspension, expulsion, and other disciplinary records, and other pertinent existing data;

(2) Identification and analysis of State, local, and school policies, practices, procedures, rules, or regulations which may bear on the disproportionately high incidence of disciplinary action respecting minority group students in the schools of cooperating local educational agencies; and

(3) Gathering of observational data, interviews with students, parents, and school personnel, and other survey techniques, and analysis of the results thereof.

At the conclusion of the activities described in this paragraph a report of findings must be prepared and made available to the cooperating local educational agencies and to school personnel, parents, and students in the community served by those agencies.

(b) Developing and implementing a program designed to eliminate the disproportionately high incidence of suspension, expulsion, and other disciplinary action involving minority group students in one or more schools in each cooperating local educational agency. Such a program must be innovative, operable at a reasonable cost, and replicable. Such a program may include, but is not limited to, the following:

(1) Development and use of new curricula and instructional methods, practices, and techniques (and the acquisition of instructional materials relating thereto) to support instruction specifically designed to eliminate the disproportionately high incidence of disciplinary action involving minority group students, such as instruction in the language, cultural heritage, and contemporary history of minority groups;

(2) The provision of additional professional or other staff members specially trained in problems related to expulsions, suspensions, and other disciplinary action;

(3) Training for the community (including school staff, parents, students, school board members, and government, civic, and business leaders) in methods of preventing circumstances that result in the disproportionately high incidence of disciplinary action involving minority group students;

(4) Comprehensive guidance, counselling, and other personal services for students;

(5) Innovative interracial educational projects, including extracurricular activities, involving the joint participation of minority groups and other students;

(6) Development of a model "Student Bill of Rights" or adaptation of a previously developed "Student Bill of Rights" to establish general guidelines for students and school personnel;

(7) Development of proposed revisions to State, local and school board policies, practices, procedures, rules, and regulations;

(8) Innovative activities developed and conducted by students and designed to identify causes of, and to develop remedies for, the disproportionately high incidence of disciplinary action involving minority group students.

(c) All activities authorized under this section must be conducted in a manner consistent with sections 438–440 of the General Education Provisions Act (including the "Family Educational Rights and Privacy Act of 1974"), as amended, and any regulations promulgated thereunder.

(20 U.S.C. 1232g–1232i, 1607(a))

§ 185.93–2 Applications.

(a) Applications pursuant to § 185.93 shall comply with the requirements of § 185.13(a), (b), (c), (d), (f), (g), (h), (j), (k)(1)(i), (k)(1)(ii), (k)(2), and (m). All applications for assistance under § 185.93, together with all correspondence and other written materials relating thereto, shall be made readily available to the public by the applicant and by the Assistant Secretary.

(b) In addition to the information and assurances required by paragraph (a) of this section, applications shall contain the following information:

(1) A description of the proposed project and of such policies and procedures as will insure that the applicant will use funds received under § 185.93 only for the activities described in § 185.93–1;

(2) A letter from each local educational agency with which the applicant proposes to conduct activities, indicating that the local educational agency has reviewed the proposed project and the application and has agreed to participate in the program activities, if funded;

(3) A statement, signed by an authorized official of each local educational agency with which the applicant proposes to conduct activities, that such local educational agency is in compliance with the requirements described in § 185.43 or § 185.44.

(20 U.S.C. 1605(d), 1607(a), 1609(a))

§ 185.93–3 Criteria for assistance.

(a) *Educational and programmatic criteria.* The Assistant Secretary shall determine the educational and programmatic merits of applications for funds for special student concerns projects on the basis of the following criteria:

(1) *Needs assessment (25 points).* (i) The extent to which the applicant has undertaken a preliminary assessment of the needs to be addressed by the proposed project and has obtained objective data as to suspension, expulsion, and other forms of disciplinary action respecting minority group students in the cooperating local educational agencies;

(ii) The difference in magnitude between the extent of such disciplinary action prior to implementation of a plan or project described in § 185.11 or § 185.31 (a) and the extent of such disciplinary action during implementation of such plan or project, a greater difference indicating greater need;

(iii) The percentage of such disciplinary action involving students who are members of minority groups as opposed to the percentage of students in attendance in the schools of the cooperating local educational agency or agencies who are minority group members, a greater difference indicating greater need.

(2) *Statement of objectives (6 points).* (i) The degree to which the applicant sets out specific measurable objectives for its project in relation to the needs identified;

(ii) The degree to which the project promises realistically to address the needs identified.

(3) *Activities (43 points):* (i) *Project design (28 points).* (*a*) The extent to which students are involved in assessing disciplinary pattern problems and involved in devising solutions; (*b*) the extent to which the cooperating local educational agencies will be actively involved in the project's implementation, (*c*) the quality of any data collection and analysis methods outlined in the application, and (*d*) the extent to which principals, teachers, and other personnel of the schools to participate in the program described in § 185.93–1(b) will be involved in the development of such program;

(ii) *Staffing (3 points).* The extent to which the application sets out an adequate staffing plan for the project and provides that staff members will be selected who have had experience in dealing with disciplinary pattern problems;

(iii) *Delivery of services (3 points).* The extent to which the proposed project sets out a plan for meeting the logistical requirements of the proposd activities, including a description of adequate and conveniently available facilities and equipment;

(iv) *Parent and community involvement (9 points)*. The extent to which the application (*a*) delineates specific opportunities for community and advisory committee participation in the development and implementation of the proposed project in addition to those required by § 185.93–4, and (*b*) includes evidence that such participation has been encouraged and has in fact occurred.

(4) *Resource management (4 points)*. The extent to which the application contains evidence that (i) the costs of project components are reasonable in relation to the expected benefits; (ii) all possible efforts have been made to minimize the amount of funds requested for purchase of equipment necessary for implementation of the proposed project; and (iii) the proposed project will be coordinated with existing efforts in the same area.

(5) *Evaluation (12 points)*. The extent to which the application sets out a format for objective, quantifiable measurement of the success of the proposed project in achieving the stated objectives, including (i) a timetable for compilation of data for evaluation and a method of reviewing the project in the light of such data; and (ii) a description of instruments to be used for evaluation of the proposed project (and of the method for validating such instruments), or a description of the procedure to be employed in selecting such instruments.

(6) *Replicability (5 points)*. The extent to which the project may be easily replicated in other schools, both within the cooperating local educational agency or agencies and in other local educational agencies.

(7) *Dissemination (5 points)*. The extent to which adequate provision is made to disseminate information regarding the progress and findings of the project, including results of the program described in § 185.93–1(b), to other educational agencies and other interested agencies and organizations.

(8) In making the determinations required under this paragraph, the Assistant Secretary is authorized to purchase or utilize the services, recommendations, and advice of experts in the areas of student discipline patterns, education, and human relations from the Department, other Federal agencies, State or local governmental units, or the private sector.

(b) *Funding criteria*. In determining amounts to be awarded to applicants for assistance pursuant to § 185.93, the Assistant Secretary shall consider the additional cost to each applicant (as such cost is defined in § 185.13(a)) of effectively carrying out its proposed project in relation to the amount of funds available for assistance pursuant to § 185.93 and the other applications for such assistance pending before him. The Assistant Secretary shall not be required to approve any application which does not meet the requirements of the Act or this part, or which sets forth a project of such insufficient promise for achieving the purposes of the Act that its approval is not warranted. In applying the criterion set out in this paragraph, the Assistant Secretary shall award funds to applicants (whose applications meet such requirements and are of sufficient promise to warrant approval) in the order of their ranking on the basis of the criteria set out in this section. No more than one award shall be made for any fiscal year to applicants proposing to carry out projects with respect to local educational agencies in any one State, unless the Assistant Secretary determines that several applications for such State are of exceptional merit or promise.

(20 U.S.C. 1601(b), 1607(a), 1609(c) (1), (2), (4), and (6))

§ 185.93–4 Community involvement.

Applicants shall comply with the requirements for advisory committee participation set forth in § 185.65. Where the primary area to be served by the project is larger than that of one local educational agency, members of the advisory committees required by this section, and civic or community organizations designated to select such members, shall be selected to represent the larger area to be served.

(20 U.S.C. 1607(a))

OTHER SPECIAL PROJECTS

§ 185.94 Eligibility for assistance.

(a)(1) The Assistant Secretary may assist, by grant or contract, any State or local educational agency or other public agency or organization (or a combination of such agencies and organizations), from funds reserved pursuant to § 185.95 (b)(1) for the purpose of conducting special programs or projects which the Assistant Secretary determines will make substantial progress toward achieving the purposes of the Act.

(2) No more than two and one-half percent of the funds appropriated under the Act for any fiscal year shall be awarded pursuant to this section for projects in Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(20 U.S.C. 1607(a))

(b) *Limitations on eligibility; non-public participation.* The limitations on eligibility set forth in § 185.43 shall apply to educational agencies applying for assistance under this section. The provisions of § 185.44 as to waiver of ineligibility shall apply to local educational agencies applying for assistance under this section. The provisions of § 185.45 as to termination of assistance shall apply to all recipients of assistance under this section. The provisions of § 185.42 as to participation of children or staff enrolled in or employed by non-public schools shall apply to local educational agencies applying for assistance under this section.

(20 U.S.C. 1605(d), 1607(a), 1609(a), 1611(c))

§ 185.94–1 Authorized activities.

(a) Assistance made available pursuant to § 185.94 shall be used for activities described in or authorized by §§ 185.12, 185.22, 185.32, 185.52, 185.62, and 185.72 which would not otherwise be funded and which are designed to carry out the purposes described in § 185.01.

(b) The provisions of § 185.12(b), (c), and (d) shall apply to assistance made available under § 185.94.

(20 U.S.C. 1607(a))

§ 185.94–2 Applications.

Applications by local educational agencies for assistance under this subpart shall comply with the requirements of § 185.13(a) through (n). Applications by other public agencies or organizations shall be in such form, and contain such information and assurances, as may be required by the Assistant Secretary. All applications for assistance under § 185.94, together with all correspondence and other written materials relating thereto, shall be made readily available to the public by the applicant and by the Assistant Secretary.

(20 U.S.C. 1607(a), 1609(a))

§ 185.94–3 Criteria for assistance.

The merits of applications for assistance pursuant to § 185.94 shall be determined on the basis of the criteria set forth in § 185.14, to the extent that such criteria are applicable to the proposed program, project, or activity.

(20 U.S.C. 1607(a), 1609(c))

§ 185.94–4 Community involvement.

Applicants for assistance pursuant to § 185.94 which are local educational agencies shall comply with the requirements of § 185.41, to the extent that such requirements are applicable to the proposed program, project, or activity. Other applicants for assistance pursuant to § 185.94 shall comply with the requirements for advisory committee participation set forth in § 185.65. Where the primary area to be served by the project is larger than that of one local educational agency, members of the advisory committees required by this section, and civic or community organizations designated to select such members, shall be selected to represent the larger area to be served.

(20 U.S.C. 1607(a), 1609(a)(2) and (3), 1609(b))

Subpart K—Reservations

§ 185.95 Reservations of funds.

(a) [Reserved]

(b) The Assistant Secretary hereby reserves:

(1) An amount no less than 4 percent nor more than 5 percent of the sums appropriated under the Act for any fiscal year for the purposes of special projects under subparts D and J of this part;

(2) An amount equal to 4 percent of the sums so appropriated for the purposes of bilingual activities under subpart E of this part;

(3) An amount no less than 3 percent nor more than 4 percent of the sums so appropriated for the purposes of educational television projects under subpart H of this part; and

(4) An amount equal to 1 percent of the sums so appropriated for the purpose of evaluations under subpart I of this part.

(20 U.S.C. 1603(b), 1607(a) and (c), 1610, 1612; Public Law 93-380, section 642)

(c) The Assistant Secretary hereby reserves an amount equal to 15 percent of the sums appropriated under the Act for any fiscal year for grants to, and contracts with, local educational agencies for pilot programs or projects pursuant to subpart C of this part.

(1) The sums reserved under this paragraph shall be apportioned to each State in accordance with section 705(a)(1) of the Act, and shall be used in such States only for the purposes described in this paragraph.

(2) The amount by which the sum apportioned to a State for a fiscal year for the purposes described in this paragraph exceeds the amount which the Assistant Secretary determines will be required for such fiscal year for such pilot programs or projects shall be available for reapportionment to other States in accordance with section 705(b) of the Act for the purposes described in this paragraph. Upon a determination by the Assistant Secretary that no need exists in any State for funds for such purposes, such excess amount shall be available for reapportionment to other States in accordance with section 705(b) of the Act for grants or contracts pursuant to subpart B of this part. Upon a further determination by the Assistant Secretary that no need exists in any State for funds for the purposes described in subpart B of this part, such remaining excess amount shall be available for reapportionment to other States in accordance with section 705(b) of the Act for grants or contracts pursuant to subpart G of this part.

(Public Law 93-318, sections 705(a)(2), 705(b), 706(b))

(d)(1) The Assistant Secretary hereby reserves (i) an amount equal to 4 percent of the sums appropriated under the Act for any fiscal year for grants to, or contracts with, public or nonprofit private agencies, institutions, or organizations (other than local educational agencies), pursuant to § 185.61(a)(1), and (ii) an amount equal to 4 percent of the sums appropriated under the Act for any fiscal year for grants to, or contracts with, public or nonprofit private agencies, institutions, or organizations (other than local educational agencies and nonpublic elementary or secondary schools) pursuant to § 185.61(a)(2).

(2) The sums reserved under this paragraph shall be apportioned to each State in accordance with section 705(a)(1) of the Act, and shall be used in such States only for the purposes described in this paragraph.

(3) The amount by which the sum apportioned to a State for a fiscal year for the purposes described in this paragraph exceeds the amount which the Assistant Secretary determines will be required for such fiscal year for such grants or contracts shall be available for reapportionment to other States in accordance with section 705(b) of the Act for the purposes described in this paragraph. Upon a determination by the Assistant Secretary that no need exists in any State for funds for such purposes, such excess amount shall be available for reapportionment to other States in accordance with section 705(b) of the Act for grants or contracts pursuant to subpart B or subpart C of this part.

(Public Law 92-318, sections 705(a)(3), 705(b), 706(b)) [38 FR 3452, Feb. 6, 1973, as amended at 39 FR 13270, Apr. 12, 1974; 40 FR 25186, June 12, 1975]

§§ 185.96–185.100 [Reserved]

Appendix 2-B

federal register

FRIDAY, JULY 1, 1977

PART II

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

EMERGENCY SCHOOL AID

Grant Awards for Fiscal Year 1977

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 185—EMERGENCY SCHOOL AID

AGENCY: Office of Education, HEW.

ACTION: Final rule.

SUMMARY: The regulations in this document are for the purpose of governing the award of fiscal year 1977 grants for the planning and operation of magnet schools, cooperative programs between local educational agencies and universities or businesses, and the planning of neutral site schools. These activities are authorized by amendments to the Emergency School Aid Act contained in the Education Amendments of 1976.

EFFECTIVE DATE: As required by section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232(d)), these regulations have been transmitted to the Congress concurrently with the publication of this document in the FEDERAL REGISTER. That section provides that regulations subject to it become effective on the forty-fifth day following transmission, subject to the provisions in that section concerning Congressional action and adjournment.

ADDRESSES: Any comments or questions concerning these regulations should be directed to Thomas W. Fagan, Room 2017, FOB-6, 400 Maryland Avenue SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT:

Thomas W. Fagan (202-245-3465).

SUPPLEMENTARY INFORMATION: Under the authority of the Emergency School Aid Act ("ESAA", 20 U.S.C. 1601 et seq.) and, in particular, the 1976 amendments to that statute contained in section 321(c) of Pub. L. 94-482, the Commissioner (to whom the Assistant Secretary has delegated functions under the ESAA) amends the regulations in 45 CFR Part 185 by adding a new Subpart L as set forth below.

PUBLIC AND ADVISORY COUNCIL PARTICIPATION

A notice of Intent to Issue Regulations to implement the 1976 amendments to the ESAA was published in the FEDERAL REGISTER on November 22, 1976 (41 FR 51550). Five commenters responded with suggestions concerning magnet schools, university business cooperation, or neutral site planning, and the Commissioner has considered these suggestions in developing the regulations in this document. In addition, the Commissioner has received and considered the advice of the National Advisory Council on Equality of Educational Opportunity (NACEEO) respecting these regulations. For the reasons described below, the Commissioner issues the regulations in this document as a final rule. He anticipates further participation by the public and the NACEEO in connection with the publication of proposed regulations to govern the award of funds in subsequent fiscal years.

DEFINITIONS

Definitions of some terms used in Subpart L are contained in existing regulations pertaining to the Emergency School Aid Act. See, in particular, § 185.02. However, § 185.101 in Subpart L contains definitions of certain terms used in that Subpart alone. The definitions of "magnet school" and "neutral site school" are taken from the 1976 amendments to the statute. The definition of a "special curriculum" required for a magnet school permits the award of a grant in connection with a school that offers a course of study embracing either special subject matter or a special teaching methodology. The "special curriculum" need not be unique. An applicant may seek funds in connection with more than one school offering the same curriculum, or schools offering different curricula, so long as the curriculum at each school is not generally available in the applicant's schools.

The definition of "special curriculum" excludes curricula designed solely for handicapped students or for students of limited English-speaking ability because students are assigned to these curricula by virtue of their special educational needs. In order to ensure that a magnet school is open to students of various ethnic and economic backgrounds, the definition of "special curriculum" also excludes one in which a student is unable to participate because of his or her limited English-speaking ability or limited financial resources. Finally, the definition excludes a curriculum which fails to provide for a participating student's meeting the requirements for completion of elementary or secondary education in the same period as other students enrolled in the applicant's schools. This provision is designed to ensure that a student's enrollment in a magnet school will result in no academic penalty either in the magnet school or in another school to which the student transfers after enrolling in the magnet school.

ELIGIBILITY

Section 185.102 sets out the eligibility requirements for a grant under Subpart L. It provides that only a local educational agency may apply for such a grant, and that the applicant must comply with the civil rights related limitations on eligibility applicable to any educational agency seeking ESAA assistance.

In the case of a grant to conduct educational programs in a magnet school, a further eligibility requirement obtains. Under the statute, this kind of grant may be used only in connection with a school or education center that offers a special curriculum "capable of attracting substantial numbers of students of different racial backgrounds" (20 U.S.C. 1619(9)). Section 185.102(c) requires that the enrollment of a magnet school include substantial numbers of students from different racial backgrounds 60 days after the beginning of the first school term during the project period. The purpose of this provision is to ensure that the curriculum of the school is truly capable of attracting a racially diverse student body, and thereby to ensure that grant funds are used for the purposes permitted by the statute. The Commissioner encourages applicants for magnet school grants to take the necessary steps to attract a racially diverse student body to each school before the beginning of the school term, and anticipates that applicants will be successful in this regard. However, the Commissioner recognizes that precise enrollment figures are difficult to ascertain before school opens, that some students enroll after that date, and that a limited number of students may be attracted to one school after first enrolling in another. For these reasons, he has determined that the capability of a curriculum to attract a racially diverse student body should be assessed 60 days after the beginning of the school term.

Under § 185.102(c), minority group students may constitute between 20 and 50 percent of the enrollment of a magnet school. If the applicant enrolls in its schools students from more than one minority group, the minority group enrollment of the magnet school must generally reflect the minority group enrollment in the applicant's schools as a whole. In establishing these requirements, the Commissioner has been guided, first, by the purposes of the Emergency School Aid Act set out at 20 U.S.C. 1601(b) and, in particular, 20 U.S.C. 1601(b)(2):

> To encourage the voluntary elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority group students.

In view of the purposes of the statute, the Commissioner has determined that funds may not be used in connection with a minority group isolated school as that term is defined in the statute. (See 20 U.S.C. 1619(11) and § 185.02(g) of the ESAA regulations.) Therefore, the regulations establish a ceiling of 50 percent for the minority group enrollment in a magnet school.

In establishing a floor of 20 percent minority enrollment in a magnet school, the Commissioner has been guided by the views of experts in school desegregation. For example, Dr. Thomas Pettigrew, in testimony before Congress prior to the enactment of the ESAA, expressed his opinion that the optimum minority group enrollment in a school was not less than 20 percent. (Hearings before the Select Committee on Equal Educational Opportunity of the United States Senate on Equal Educational Opportunity, 91st Cong., 2d Sess., Pt. 2, at 769 (1970).) More recently Dr. Charles V. Willie cited the same percentage figure as the lower limit of a sufficient minority group enrollment range. (Willie, Charles V. "Racial Balance or Quality Education", "The University of Chicago School Review" 84 (1976):319.)

The regulations require a recipient of a grant to conduct educational programs in a magnet school to report the enrollment of the school as of the 60th day after the beginning of the school term. If a racially diverse student body as described above has not been attracted to a school by that time, the grant is terminated insofar as it relates to that school.

Authorized Activities

Section 185.103 sets out the activities for which funds awarded under Subpart L may be used. These activities fall into three major categories set out at 20 U.S.C. 1606(a) (13)–(15):

1. Planning and design of, and conduct of programs in, magnet schools;
2. The pairing of schools and programs with specific colleges and universities and with leading businesses; and
3. The development of plans for neutral site schools.

These activities, like those under other ESAA programs, may be assisted only if they would not otherwise be funded and are designed to carry out the purposes of the statute. Limited repair and minor remodeling or alteration of existing facilities may be assisted in connection with activities otherwise authorized.

The regulations amplify each of the three major categories of authorized activities. In the case of magnet schools both educational and architectural planning, as well as related activities, may be assisted. The conduct of educational programs in a magnet school may also be assisted, so long as the applicant's fiscal effort per student for students enrolled in the magnet school will be no less than that for students enrolled in comparable schools. This restriction is designed to ensure that ESAA funds are not used as a substitute for non-Federal funds.

In the case of university/business cooperation, the regulations do not delimit the kinds of cooperative educational programs which may be assisted. However, taking into account the purposes of the statute, the Commissioner has determined that these programs must be designed to benefit students or staff in a magnet school, a school affected by a plan described in 20 U.S.C. 1605(a), or a minority group isolated school.

The regulations relating to neutral site planning distinguish between planning activities, which may be assisted, and activities that occur after planning has been completed, which may not.

Activities may be assisted only in connection with a school planned to have the enrollment characteristics described above for a magnet school, and one which will be equally accessible to students from all racial groups.

Applications and Funding Criteria

Section 185.104 sets out the information and assurances required to be included in an application for a grant under Subpart L. It provides that an applicant under Subpart L must include enrollment data needed for the evaluation of its application, as well as the information required of local educational agencies under other ESAA programs.

Section 185.105 sets out objective criteria for use in evaluating applications for grants relating to magnet schools or university/business cooperation. The objective criteria are designed to measure the net change in minority group isolation in the applicant's schools over two periods. For fiscal year 1977 grants these periods are: (1) fiscal year 1975 compared to fiscal year 1978 (when the assisted activities would be carried out), and (2) fiscal year 1977 compared to fiscal year 1978. The elimination, reduction, or prevention of isolation in the latter period has twice the weight of that in the former. Thus, the criteria emphasize the efficacy and comprehensiveness of the applicant's efforts to address minority group isolation, and the need arising from those efforts.

Each application under Subpart L is also evaluated, in whole or in part, on the basis of other criteria. An application for a grant relating to magnet schools or university/business cooperation is evaluated on the basis of the educational criteria set out in § 185.106 as well as the objective criteria described above. An application for a grant relating to neutral site planning is evaluated only on the basis of the criteria set out in § 185.107.

Section 185.108 sets out the funding procedures for the award of grants under Subpart L. It provides for an annual reservation of a proportion of available funds for neutral site planning. Applications for grants relating to magnet schools or university/business cooperation are evaluated separately from applications for grants relating to neutral site planning. Awards are made to the highest ranking applicants in each of these two categories. However, in the case of applications for grants relating to magnet schools or university/business cooperation, the regulations provide for the award of at least five grants where a sufficient number of meritorious applications has been submitted. The purpose of this provision is to ensure that the needs of a number of applicants are met to some extent, and to provide a basis for evaluating the program in its initial phase.

Other Provisions

Sections 185.109 and 185.110 incorporate the requirements for public and advisory committee participation and nonpublic school participation, respectively, that apply to any local educational agency seeking ESAA assistance.

Waiver of Proposed Rulemaking Procedures

In accordance with section 431(b)(2)(A) of the General Education Provisions Act ("GEPA"; 20 U.S.C. 1232(b)(2)(A)) it has been the practice of the Office of Education to offer interested parties the opportunity to review and comment on proposed regulations. For the reasons described below, the Commissioner finds that resort to this practice in connection with the regulations contained in this document is impracticable and contrary to the public interest under 5 U.S.C. 553(b).

The regulations contained in this document are needed to govern the award of $7,500,000 appropriated by the Supplemental Appropriations Act, 1977 (Pub. L. 95–26, enacted May 4, 1977) in a timely and prudent fashion. These funds are the first to be appropriated to carry out the new activities authorized by amendments to the ESAA contained in section 321(c) of the Education Amendments of 1976 (Pub. L. 94–482, enacted October 12, 1976). Under section 301 of the appropriations statute, the funds remain available for obligation by the Office of Education until September 30, 1977. Regulations governing the obligation of these funds must therefore be in effect before that date.

Practical considerations relating to the use of the funds by local educational agencies demand that the regulations be in effect well in advance of September 30. Like funds appropriated for other programs under the ESAA, the funds at issue here are, in the main, for use in connection with school years which typically begin in early September. Further, applicants for these funds need to know sometime prior to the beginning of their proposed projects whether, and to what extent, Federal financial support for those projects will be forthcoming. Staff must be hired, materials and equipment must be acquired, and plans must be made. These considerations require that the regulations be in effect, and fiscal year 1977 grants for the newly authorized activities be made, as early as possible.

The regulations in this document are subject to the delayed effective date provisions contained in section 431(d) of the GEPA (20 U.S.C. 1232(d)). While the period of delay specified in section 431(d) is 45 days, a delay of up to 94 days can occur as a result of the provisions in that section concerning Congressional adjournment. The period of delay runs from the promulgation of final regulations. Resort to proposed rulemaking procedures would entail an additional delay in the effective date of the regulations arising from: (1) the period for public comment, and (2) a further period for the review of any comments received and republication of the regulations in final form.

Considering the time required to solicit public comment and to engage in a conscientious reconsideration of the regulations in the light of any comments received, and considering the delayed effective date provisions of section 431(d), it appears that final regulations could not take effect, following proposed rulemaking procedures, in time to govern timely awards of assistance for the coming school year. Therefore, the Commissioner for good cause finds that resort to proposed rulemaking procedures with respect to the regulations in this document would be impracticable and contrary to the public interest within the meaning of 5 U.S.C. 553(b).

While these regulations are issued as a final rule, the Commissioner welcomes comments on them at any time. These comments should be directed to the address set out at the beginning of this document. Following the expiration of fiscal year 1977 the Commissioner will develop proposed regulations to govern the award of funds in subsequent fiscal years, taking into account any comments received.

Note.—The Commissioner has determined that this document does not contain a major proposal requiring preparation of an Inflationary Impact Statement under Executive Order 11821 and OMB Circular A-107.

Accordingly, 45 CFR Part 185 is amended as set forth below.

(Catalog of Federal Domestic Assistance Numbers 13.589—Magnet Schools, University/Business Cooperation and 13.590—Neutral Site Planning.)

Dated: June 13, 1977.

Ernest L. Boyer,
U.S. Commissioner of Education.

Approved: June 14, 1977.

Mary F. Berry,
Assistant Secretary for Education.

Approved: June 21, 1977.

Joseph A. Califano, Jr.,
Secretary of Health, Education, and Welfare.

1. The Table of Contents is amended by adding at the end thereof the following:

Subpart L—Magnet Schools, University/Business Cooperation, and Neutral Site Planning

185.101 Definitions.
185.102 Eligibility.
185.103 Authorized activities.
185.104 Applications.
185.105 Objective criteria—magnet schools and university/business cooperation.
185.106 Educational criteria — magnet schools/university/business cooperation.
185.107 Neutral site planning criteria.
185.108 Funding procedures.
185.109 Public and advisory committee participation.
185.110 Nonpublic school participation.

Authority: Emergency School Aid Act ("ESAA"; 20 U.S.C. 1601 et seq.) 1976 amendments to Sec. 32(c) of Pub. L. 94-482.

2. A new Subpart L is added, as follows:

Subpart L—Magnet Schools, University/Business Cooperation, and Neutral Site Planning

§ 185.101 Definitions.

The following definitions apply to terms used in this subpart:

"Magnet school" means a school or education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.

"Neutral site school" means a school that is located so as to be accessible to substantial numbers of students of different racial backgrounds.

"Special curriculum" means a course of study embracing subject matter or a teaching methodology that is not generally offered to students of the same age or grade level, and in the same local educational agency, as the students to whom the special curriculum is offered. This term does not include—

(1) A course of study designed solely for handicapped students or for students of limited English-speaking ability; or

(2) A course of study in which any student is unable to participate because of his or her limited English-speaking ability; or

(3) A course of study in which any student is unable to participate because of his or her limited financial resources; or

(4) A course of study which fails to provide for a participating student's meeting the requirements for completion of elementary or secondary education in the same period as other students enrolled in the applicant's schools.

(20 U.S.C. 1603(d), 1619(9), 1619(12).)

§ 185.102 Eligibility.

(a) Any local educational agency may apply for a grant under this subpart.

(20 U.S.C. 1606(d), H.R. Rep. No. 94-1701, 94th Cong., 2d Sess. 231 (1976).)

(b) The provisions of § 185.43 (limitations on eligibility), § 185.44 (waivers of ineligibility), and § 185.46 (determinations of ineligibility prior to award to assistance) apply to any local educational agency seeking a grant under this subpart.

(20 U.S.C. 1603(d), 1606(d).)

(c) In the case of a grant for activities described in § 185.103(a) relating to the conduct of educational programs in a magnet school, the Assistant Secretary will consider the curriculum of a magnet school to be capable of attracting substantial numbers of students of different racial backgrounds only if, 60 days after the beginning of the first school term during the project period, the enrollment of the school meets the following requirements:

(1) Minority group students constitute no less than 20 percent and no more than 50 percent of the enrollment;

(2) The ratios of the number of students from each minority group to the total number of minority group students enrolled in the magnet school generally reflect the ratios among minority group students enrolled in all the schools of the recipient; and

(3) No student has been compelled to enroll in the magnet school, or to enroll in another school after enrolling in the magnet school.

If the enrollment of any school does not meet these requirements, the Assistant Secretary shall terminate the grant in accordance with § 185.45 insofar as it relates to that school.

(d) A recipient of a grant for activities described in § 185.103(a) relating to the conduct of educational programs in a magnet school shall submit to the Assistant Secretary a report showing the number of nonminority group students and the number of students from each minority group who were enrolled at each magnet school to which the grant relates on the 60th day after the beginning of the first school term during the project period. The recipient shall submit this report within 75 days after the beginning of that school term unless the Assistant Secretary, for good cause shown, sets a later date for submission.

(20 U.S.C. 1603(d), 1607(a)(13), 1619(9).)

§ 185.103 Authorized activities.

Funds awarded under this subpart may be used for the activities described in this section if those activities would not otherwise be funded and if they are designed to carry out the purposes described in § 185.01 (relating, generally, to the elimination of minority group segregation, discrimination, and isolation and the effects thereof). No more than 10 percent of the funds awarded under this subpart may be used for the repair and minor remodeling or alteration of facilities.

(a) *Magnet schools.* (1) Funds may be used for the following three activities:

(i) The planning and design of one or more magnet schools;

(ii) The conduct of educational programs in one or more magnet schools; and

(iii) The repair and minor remodeling or alteration (as defined in § 185.12(d)) of existing school facilities in connection with the conduct of educational programs in one or more magnet schools.

(2) The planning and design of a magnet school includes, but is not limited to, the following activities:

(i) Planning and design of educational programs for the school;

(ii) Architectural design of new or modified facilities to house the school;

(iii) Surveys and studies relating to the establishment or improvement of the school; and

(iv) Recruitment of students and staff for the school.

(3) The Assistant Secretary shall award funds for the conduct of educational programs in a magnet school only if the applicant's fiscal effort per student for students enrolled at a magnet school is no less than its fiscal effort per student for students enrolled at all schools serving students of the same age or grade level operated by the applicant in the fiscal year for which it seeks assistance under this subpart. For the purpose of this subparagraph, "fiscal effort per student" means the expenditure for free public education, including expenditures for administration, instruction, attendance and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities (but not including expenditures for community services, capital outlay and debt service, or any expenditure from funds granted under any Federal program of assistance) divided by the number of students with respect to whom the computation is made.

(b) *University/business cooperation.* Funds may be used for—

(1) The conduct of educational programs by the applicant, in cooperation with one or more colleges, universities, or leading businesses, for the benefit of

students enrolled, or staff employed, in—

(i) A magnet school assisted under this subpart;

(ii) A school affected by a plan or project described in § 185.11 or § 185.31 (a); or

(iii) A minority group isolated school (as defined in § 185.03(g)); and

(2) The repair and minor remodeling or alteration (as defined in § 185.12(d)) of facilities in connection with the conduct of these educational programs.

(c) *Neutral site planning.* (1) Funds may be used for the development of plans for one or more neutral site schools, including but not limited to the following activities:

(i) Surveys and studies to determine the location of the school;

(ii) Planning educational programs for the school;

(iii) Architectural design of facilities to house the school; and

(iv) The repair and minor remodeling or alteration (as defined in § 185.12(d)) of facilities in connection with the development of plans for the school.

(2) Funds may be used only in connection with a school planned to have the following characteristics:

(i) Minority group students will constitute no less than 20 percent and no more than 50 percent of the enrollment of the school;

(ii) The ratios of the number of students from each minority group to the total number of minority group students who will be enrolled in the school generally reflect the ratios among minority group students who will be enrolled in all the schools of the recipient; and

(iii) The school will be equally accessible to nonminority group students and students from each minority group who will be enrolled in it.

(3) Funds may not be used for—

(i) The acquisition or improvement of a site for the school;

(ii) The construction of facilities to house the school;

(iii) The acquisition of equipment for the school; or

(iv) Any activity related to the operation of the school.

(20 U.S.C. 1601(b), 1603(d), 1606(a) (12)-(15), 1619 (10) and (12); 122 Cong. Rec. S16870, S16872 (daily ed. Sept. 28, 1976), H11691, H11699 (daily ed. Sept. 29, 1976).)

§ 185.104 Applications.

(a) An applicant for a grant under this subpart shall include in its application a description of the activities for which it seeks assistance and the information described in §§ 185.109 and 185.110.

(b) The provisions of § 185.13 (a) through (n), relating to applications, apply to any applicant for a grant under this subpart. An applicant shall include in its application the information and assurances required by those provisions.

(c) In the case of an application for a grant to carry out activities described in § 185.103 (a) or (b) relating to magnet schools and university/business cooperation respectively, the applicant shall include in its application the information described in this paragraph.

(1) Except as provided in subparagraph (2) of this paragraph, the applicant shall include—

(i) The number of minority group students and the total number of students enrolled or to be enrolled in each of its schools in the following years:

(A) "Base year I" (meaning the third fiscal year prior to the fiscal year for which an applicant seeks assistance under this subpart);

(B) "Base year II" (meaning the fiscal year immediately prior to the fiscal year for which an applicant seeks assistance under this subpart); and

(C) The "project year" (meaning the fiscal year for which an applicant seeks assistance under this subpart); and

(ii) A description of the basis for its enrollment projections for the project year.

(2) (i) If an applicant is eligible for assistance under this part under a plan described in § 185.11(b)(3) or a project described in § 185.11(d) and chooses to rely on that plan or project in its application for assistance under this subpart, it shall include the number of minority group students and the total number of students who would be enrolled, in the project year, in each of its schools—

(A) If the plan or project were implemented; and (B) if the plan or project were not implemented.

(ii) If the applicant chooses to rely solely on that plan or project, it is not required to include the information described in subparagraph (1) of this paragraph.

(d) Both an applicant for a grant under this subpart and the Assistant Secretary shall make the application and all correspondence and other written materials relating to it readily available to the public.

(20 U.S.C. 1608(d), 1609 (a) and (b), 1612, 1605(d), 1229.)

§ 185.105 Objective criteria—magnet schools and university/business cooperation.

(a) (1) In evaluating an application for a grant under this subpart to carry out activities described in § 185.103 (a) or (b) relating to magnet schools and university/business cooperation respectively, the Assistant Secretary shall assign the application up to 90 points for the net change in isolation in the applicant's schools between base year I and the project year, and between base year II and the project year. ("Base year I," "base year II," and "project year" are defined at § 185.104.)

(2) The Assistant Secretary shall assign points for net change in isolation on the basis of the procedure described in this section.

(b) From the information required to be included in an application under § 185.103(c), the minority group percentage of the enrollment of each of the applicant's schools in base year I is computed. The number of minority group students enrolled in schools within each percentage range in Column A of Table I is determined. The number of students in each percentage range is then multiplied by the corresponding weight in Column B of Table I. The resulting weighted numbers are added. The sum is then divided by the total number of minority group students enrolled in the applicant's schools for that year.

TABLE I

Column A, minority group percentage:	Column B, Weight
95 or more	0
At least 90 but less than 95	.1
At least 85 but less than 90	.2
At least 80 but less than 85	.3
At least 75 but less than 80	.4
At least 70 but less than 75	.5
At least 65 but less than 70	.6
At least 60 but less than 65	.7
At least 55 but less than 60	.8
More than 50 but less than 55	.9
50 or less	1.0

(c) The computation described in paragraph (b) of this section is repeated using the number of minority group students to be enrolled in the applicant's schools in the project year.

(d) The result of the computation for base year I is subtracted from the result of the computation for the project year to determine the net change in isolation between base year I and the project year. Using Table II, the Assistant Secretary assigns the application the number of points in Columb B which corresponds to the applicant's net change in isolation in Column A.

TABLE II

Column A, net change in isolation:	Column B, points
96 to 100	32
91 to 95.99	30
86 to 90.00	27
81 to 85.99	26
76 to 80.99	24
71 to 75.99	23
66 to 70.99	21
61 to 65.99	20
56 to 60.99	18
51 to 55.99	17
45 to 50.99	15
41 to 44.99	14
36 to 40.99	12
31 to 35.99	11
26 to 30.99	9
21 to 25.99	8
15 to 20.99	6
11 to 14.99	5
6 to 10.99	3
4 to 5.99	2
0 to 3.99	1

(e) The computation described in paragraph (b) of this section is repeated using the number of minority group students enrolled in the applicant's schools in base year II. The result of this computation is subtracted from the result of the computation for the project year to determine the net change in isolation between base year II and the project year. Using Table II, the Assistant Secretary assigns the application the number of points in Column B which corresponds to the applicant's net change in isolation in Column A multiplied by two.

(f) If the applicant relies on either a plan described in § 185.11(b)(3) or a project described in § 185.11(d), or both, and on the reduction or elimination of minority group isolation, the Assistant Secretary assigns the application points on the basis of the computations described in paragraphs (b) through (e) of this section using as project year data the enrollment data based on implementation of the plan or project.

(g) If the applicant relies solely on a plan described in § 185.11(b)(3) or a project described in § 185.11(d), or both, the Assistant Secretary assigns the application points on the basis of the computations described in paragraphs (b) through (e) of this section—

(1) Using as base year I and base year II data the enrollment data based on no implementation of the plan or project; and

(2) Using as project year data the enrollment data based on implementation of the plan or project.

(20 U.S.C. 1601(b), 1603(d), 1606(a) (12)-(14), 1609(c) (1)-(4).)

§ 185.106 Educational criteria—magnet schools and university/business cooperation.

In evaluating an application for a grant under this subpart to carry out activities described in § 185.103 (a) or (b) relating to magnet schools and university/business cooperation respectively, the Assistant Secretary shall assign the application up to 70 points on the basis of the following criteria:

(a) *Need assessment (10 points).* (1) The magnitude of the need for the activities proposed in the application (5 points; and

(2) The extent to which the need is supported by objective evidence (5 points).

(b) *Statement of objectives (10 points).* (1) The extent to which the applicant sets out specific, measurable objectives related to the need assessed (4 points);

(2) The extent to which the objectives realistically address the need assessed (3 points); and

(3) The extent to which the objectives were developed by persons with relevant experience and persons from all racial and ethnic populations to be served by the proposed activities (3 points).

(c) *Activities (36 points).*—(1) *Project design (24 points).* (i) The extent to which the proposed activities are unique (4 points);

(ii) The thoroughness of the applicant's planning for the proposed activities and the extent to which those activities will be coordinated with other efforts by the applicant to eliminate, reduce, or prevent minority group isolation (4 points);

(iii) The extent to which the proposed activities will promote interracial and intercultural contact and understanding (3 points);

(iv) The extent to which the proposed activities will meet the needs of individual students, including students of varying levels of achievement (4 points);

(v) The extent to which the proposed activities will reflect the interests of parents, students, and other members of the community (3 points);

(vi) The extent to which the curriculum to which the proposed activities relate includes materials pertinent to the racial and ethnic composition of the schools or community to be served (2 points);

(vii) The extent to which instruction in basic skills is integrated into the proposed activities (2 points); and

(viii) The extent to which the proposed activities provide for cooperative planning among teachers and other staff to meet the needs of individual students (2 points).

(2) *Staffing (6 points).* (i) The extent to which the applicant sets out an adequate staffing plan, including specific job responsibilities and provisions for making maximum use of present staff capabilities (2 points);

(ii) The extent to which the proposed activities will be conducted by staff which reflect the racial and ethnic composition of the schools or community to be served (2 points);

(iii) The extent to which the proposed activities include necessary staff training (2 points).

(3) *Parent and Community Involvement (6 points).* (i) The extent to which the applicant will involve parents and students in carrying out the proposed activities, as by employing parents as instructional aides in the classroom and informing parents and students of progress made in carrying out the proposed activities (2 points);

(ii) The extent to which the applicant will involve in the proposed activities public and private agencies in the community which have previously been involved in activities related to the elimination, reduction, or prevention of minority group isolation (2 points); and

(iii) The extent to which the applicant delineates specific opportunities for the participation in the proposed activities of the advisory committee described in § 185.41 (2 points).

(d) *Management (8 points).* (1) The extent to which the amount of funds requested is of sufficient magnitude in relation to the number of participants to be served to give substantial promise of achieving the stated objectives, and is reasonable in relation to the expected benefits (2 points);

(2) The extent to which the applicant has made all possible efforts to minimize the amount of funds requested for the purchase of equipment to carry out the proposed activities (2 points);

(3) The extent to which the applicant sets out a detailed and realistic schedule of implementation (2 points); and

(4) The extent to which the applicant sets out a plan for meeting the logistical requirements for the proposed activities, including a description of adequate and conveniently available facilities and equipment (2 points).

(e) *Evaluation (6 points).* The extent to which the applicant sets out a format for objective, quantifiable measurement of the success of the proposed activities in achieving the stated objectives, including—

(1) A timetable for the compilation of data for evaluation and a method for continuing review of the proposed activities in the light of that data (2 points);

(2) A description of instruments to be used for evaluation of the proposed activities (and of the method for validating these instruments where necessary), or a description of the procedure to be employed in selecting these instruments (2 points; and

(3) Provisions for the comparison of evaluation results with norms, control group performance, results of other programs, or other external standards (2 points).

(20 U.S.C. 1601(b), 1603(d), 1606(a) (12)-(14), 1609(c) (1), (2), (4), and (6).)

§ 185.107 Neutral site planning criteria.

In evaluating an application for a grant under this subpart to carry out activities described in § 185.103(c) relating to neutral site planning, the Assistant Secretary shall assign the application up to 100 points on the basis of the following criteria:

(a) *Need assessment (20 points).* (1) The magnitude of the need for the activities proposed in the application (10 points); and

(2) The extent to which the need is supported by objective evidence, including demographic data (10 points).

(b) *Statement of objectives (5 points).* (1) The extent to which the applicant sets out specific, measurable objectives related to the need assessed (2 points);

(2) The extent to which the objectives realistically address the need assessed (1 point); and

(3) The extent to which the objectives were developed by persons with relevant experience and persons from all racial and ethnic populations to be served by the proposed activities (2 points).

(c) *Activities (60 points).*—(1) *Project design (35 points).* (i) The extent to which the proposed activities will be coordinated with other efforts by the applicant to eliminate, reduce, or prevent minority group isolation (5 points);

(ii) The extent to which the proposed activities will be coordinated with the applicant's other planning activities, including those related to building use (5 points);

(iii) The extent to which the proposed activities will be coordinated with the planning activities of both other governmental agencies and the private sector to ensure that a neutral site school to which the proposed activities relate will have the characteristics described in § 185.103(c)(3) for an extended period (10 points);

(iv) The extent to which the proposed activities will assist in eliminating, reducing, or preventing minority group isolation in the schools of more than one local educational agency (5 points);

(v) The extent to which the proposed activities, including any educational planning activities, will reflect the interests of parents, students and other member of the community (5 points); and

(vi) The extent to which the applicant provides evidence of a commitment to implement any plan developed with assistance under this subpart (5 points).

(2) *Staffing* (*10 points*). (i) The extent to which the applicant sets out an adequate staffing plan, including specific job responsibilities and provisions for making maximum use of present staff capabilities (4 points);

(ii) The extent to which the proposed activities will be conducted by staff which reflect the racial and ethnic composition of the community to be served (3 points); and

(iii) The extent to which the proposed activities include necessary staff training (3 points).

(3) Parent and community involvement (15 points). (i) The extent to which the applicant will involve parents and students in carrying out the proposed activities (5 points);

(ii) The extent to which the applicant will involve in the proposed activities public and private agencies which have previously been involved in activities related to the elimination, reduction, or prevention of minority group isolation (5 points); and

(iii) The extent to which the applicant delineates specific opportunities for the participation in the proposed activities of the advisory committee described in § 185.41 (5 points).

(d) *Management* (*10 points*). (1) The extent to which the amount of funds requested is of sufficient magnitude in relation to the stated objectives to give substantial promise of achieving those objectives, and is reasonable in relation to the expected benefits (2 points);

(2) The extent to which the applicant has made all possible efforts to minimize the amount of funds requested for the purchase of equipment to carry out the proposed activities (2 points);

(3) The extent to which the applicant sets out a detailed and realistic schedule of implementation (2 points); and

(4) The extent to which the applicant sets out a plan for meeting the logistical requirements for the proposed activities, including a description of adequate and conveniently available facilities and equipment (4 points).

(e) *Evaluation* (*5 points*). The extent to which the applicant sets out a format for objective, quantifiable measurement of the success of the proposed activities in achieving the stated objectives, including—

(1) A timetable for the compilation of data for evaluation and a method for continuing review of the proposed activities in the light of that data (3 points); and

(2) A description of instruments to be used for evaluation of the proposed activities (and of the method for validating these instruments where necessary), or a description of the procedure to be employed in selecting these instruments (2 points).

(20 U.S.C. 1601(b), 1603(d), 1606(a) (12) and (15), 1609(c) (1)–(4) and (6).)

§ 185.108 Funding procedures.

(a) The Assistant Secretary shall make any grant under this subpart from funds appropriated under section 704(d) of the Act. The Assistant Secretary will announce, by publication of a notice in the FEDERAL REGISTER:

(1) The amount of funds, if any, available for grants under this subpart in any fiscal year;

(2) The proportion of those funds which the Assistant Secretary will reserve for grants to carry out activities described in § 185.103(c) relating to neutral site planning.

(3) The project period for grants under this subpart; and

(4) The deadline for receipt of applications for these grants.

(b) (1) The Assistant Secretary shall separately evaluate applications for grants to carry out—

(i) Activities described in § 185.103(a) or (b) relating to magnet schools and university/business cooperation respectively; and

(ii) Activities described in § 185.103(c) relating to neutral site planning.

(2) The Assistant Secretary shall make grants to eligible applicants in each category on the basis of their ranking under the criteria in this subpart. However, the Assistant Secretary shall not be required to approve any application which contains proposed activities that afford no substantial promise of achieving the purposes described in § 185.01, as measured by the criteria in this subpart.

(c) The Assistant Secretary shall fix the amount of each grant on the basis of the additional cost (as defined in § 185.13(a)(1)) of carrying out authorized activities. However, if in any fiscal year at least five applicants have submitted applications for grants to carry out activities described in § 185.103 (a) or (b) relating to magnet schools and university/business cooperation respectively, and if their applications are otherwise approvable, the Assistant Secretary shall make no fewer than five grants for those activities. If the amount needed to fund all authorized activities proposed by the five highest ranking applicants exceeds the amount of funds available, the Assistant Secretary shall reduce the amount of each grant by an equal proportion.

(d) The Assistant Secretary shall not finally disapprove in whole or in part an application for a grant under this subpart without first notifying the applicant of the specific reasons for disapproval and affording the applicant an appropriate opportunity to modify its application.

(20 U.S.C. 1601(b), 1603(d), 1606(a) (12) (15), 1609(a)(4), 1609(c), 1609(d)(2), 1609(e).)

§ 185.109 Public and advisory committee participation.

The provisions of § 185.41 apply to any applicant for a grant under this subpart. An applicant shall include in its application the information and assurances required by those provisions.

(20 U.S.C. 1609(a)(2), 1609(a)(3), 1609(b).)

§ 185.110 Nonpublic school participation.

The provisions of § 185.42 apply to any applicant for a grant under this subpart. An applicant shall include in its application the information and assurances required by those provisions.

(20 U.S.C. 1609(a)(12), 1605(d), 1611(c).)

[FR Doc.77-18283 Filed 6-30-77;8:45 am]

Appendix 2-C

federal register

FRIDAY, JULY 1, 1977
PART V

THE NATIONAL ARCHIVES OF THE UNITED STATES • 1934 •

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

EDUCATIONAL TELEVISION— EMERGENCY SCHOOL AID

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 185—EMERGENCY SCHOOL AID—EDUCATIONAL TELEVISION

AGENCY: Office of Education, HEW.

ACTION: Final Regulations.

SUMMARY: This regulation governs financial assistance to eligible applicants for the development and production of integrated children's television programs of cognitive and affective educational value. The changes are being made in response to concerns of the constituent community and to conform the regulations to prevailing television industry practices.

EFFECTIVE DATE: Pursuant to section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232 (d)), this regulation has been transmitted to the Congress concurrently with the publication in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

FOR FURTHER INFORMATION CONTACT:

Dave Berkman, Bureau of Elementary and Secondary Education, Room 2011, Federal Office Building 6, 400 Maryland Avenue, S.W., Washington, D.C. 20202 (202/245-2465).

SUPPLEMENTARY INFORMATION: Notice of proposed rulemaking was published in the FEDERAL REGISTER on October 20, 1976 at 41 FR 46317 which amended Subpart H of Part 185 of Title 45 of the Code of Federal Regulations. Interested parties were given 45 days after October 20, 1976 to submit comments, suggestions, or objections. Six letters containing 20 suggestions and comments were received. A summary of these comments and responses is discussed in this document.

SUMMARY OF COMMENTS AND RESPONSES

1. *Comment.—Categories—§ 185.72(a)(1).* One commenter suggested that the inclusion of a new category would discourage proposers from applying for initial funding since there would be only limited opportunity to obtain additional funding in subsequent years. This category limits continuations of previously funded national series to one per year in those years when proposals in this category are requested. This category also excludes the possibility of continuations in other years.

Response. No change is made in the proposed rule. Under the previous regulations, a disproportionate share of funding was paid for continuations. In the most recent year, all national series funded were continuations. This new regulation makes it possible to fund a prior recipient in a year when proposals for the national continuation category are invited. It also makes it possible to guarantee funding of new national series to meet previously unmet needs. It should also be noted that a previously funded national bilingual series is eligible for funding in any year when proposals in the bilingual category are invited. For these reasons, the limitation of "no more than one contract" per category will be retained.

2. *Comment.—Continuation categories—§ 185.72.* It was suggested that the continuation categories should allow for automatic, non-competitive funding.

Response. No change was made in the proposed rule. Applicants for national or regional series continuation funding are required to go through the same competitive process as other applicants in order to assure annual competitive television programming. In other words, merely because an applicant has been funded in a prior year, will not assure funding in a subsequent year.

3. *Comment.—Continuation of regional categories—§ 185.72.* It was suggested that the inclusion of a continuation "regional" category can give unfair advantage to producers of previously funded "regional" series.

Response. No change was made in the proposed rule. Under the previous regulations, in which old and new regional series could compete against each other, it was possible that the category could be dominated by continuation fundings. The regulations now make it possible to assure the funding of up to three new regional series as well as for the continuation of two series funded in a prior year.

4. *Comment.—New categories—§ 185.72(a).* It was suggested that additional new categories should be established for funding to insure maximum latitude for consideration of content ideas.

Response. No change was made in the proposed rule. The national categories which allow for either cognitive or affective programming intended for elementary or secondary age students, and the virtually unlimited regional categories, would seem to allow almost unlimited program content possibilities. While proposals will not be invited in all national categories each year, it is expected that before this legislative authorization expires, proposals in each of these categories will be invited at least once.

5. *Comment.—Category for linguistic and grammatical deficiencies—§ 185.72(a)(1).* It was suggested that the former programming category concerned with "linguistic and grammatical deficiencies" be retained.

Response. No change was made in the proposed rule. Programming designed to meet such needs can be submitted in either of the two national "cognitive" categories or in the new "regional," categories.

6. *Comment.—National bilingual program category—§ 185.72(a)(6).* It was suggested there is no need for a national bilingual program category and that bilingual programming continue to be funded under other national categories.

Response. No change was made in the proposed rule. The inclusion of such a category insures the possibility of funding at least one bilingual series in a given year, and avoids the imbalance created by a situation whereby bilingual programming competes and is awarded funding in more than one category.

7. *Comment.—Limitation of awards by ethnic grouping—§ 185.72(b).* It was suggested that the regulations would no longer limit awards in a given year to one series directed at one racial or ethnic group unless the Assistant Secretary for Education makes an exception.

Response. No change was made in the proposed rule. Section 185.72(b)(2) which speaks to these concerns is retained.

8. *Comment.—Amount of regional award—§ 185.72(b)(3).* It was suggested that there is no need to increase the maximum amount for a "regional" award to $300,000. It was also suggested that there was no need to increase the maximum amount for "regional" continuation series.

Response. No change was made in the proposed rule. The rate of inflation since the previous limit of $250,000 was set over four years ago, makes it necessary to increase the maximum amount to $300,000 for both new and continuation series funded under the "regional" categories.

9. *Comment.—Authority of Assistant Secretary for limiting usage—§ 185.72(c).* A commenter suggested that the authority of the Assistan. Secretary with respect to authorizing a lesser usage when the cost of obtaining such rights proves excessive, be broadened to permit a lesser usage for reasons other than excessive cost.

Response. No change was made in the proposed rule. Section 711(b)(1) of Title VII, Pub. L. 92-318 (20 U.S.C. 1610(b)(1)) mandates that all programming produced under that section be made reasonably available, free of charge, to the user. The purpose of § 185.72(c)(2) is to abide by the congressional intent with respect to the free availability to users. To add additional bases for flexibility, other than a cost factor, would not be within the province of the Assistant Secretary's authority.

10. *Comment.—Public station usage rights—§ 185.72(c)(2).* It was noted that the proposed rule does not make it clear that the period of minimum public station usage rights commences with the first broadcast by any public station.

Response. A technical change to this effect has been made in the proposed rule to reflect that usage rights commence with the first broadcast by any public station.

11. *Comment.—Commercial stations—§ 185.72(c)(2).* It was suggested that the provision mandating minimum commercial station use rights be limited to sustaining carriage. It was further suggested that commercial broadcasters not be allowed, as is the case in public television, to sell air time to cover the cost of transmitting a series, in return for which the entity paying for the air time receives a credit.

Response. No change was made in the proposed rule. The government cannot prohibit the selling of air time under such an arrangement. However, because of the excessive cost for producers to obtain such a use right from talent unions, there is no requirement that producers of series produced under the Emergency School Aid Act educational television contracts do so.

12. *Comment.—Right of first refusal—§ 185.72(c)(2)(ii).* A commenter suggested that the phrase "exercise the right of first refusal" suggests that a station exercising the right has agreed to carry the program.

Response. A change has been made in the proposed rule to clarify this concept. The phrase "right of first refusal" as used in § 185.72(c)(2)(ii) means that a program has been offered to local public stations in the coverage area through a national or regional public network feed, and the local public stations have refused to carry the program. It is at this point that the "right" would be exercised.

13. *Comment.—Commercial station transmissions — § 185.72(c)(2)(ii).* A commenter requested clarification with respect to governing commercial station transmissions where a series is not carried by any public television station serving a coverage area.

Response. A technical change has been made in the proposed rule to indicate that this usage right applies only where a series is carried by public stations as the result of national or regional public network origination.

14. *Comment.—In-school audiovisual use—§ 185.72(c)(2)(iii).* It was suggested that the requirement in the prior regulations which mandated that the producer obtain unrestricted in-school audiovisual rights be retained.

Response. No change was made in the proposed rule. Talent unions will not, as a matter of principle, grant any use rights in perpetuity. Twelve years seems a reasonable limit for usage which will comply with the congressional intent to make the series reasonably available free of charge. It is doubtful if any series would prove useful beyond that period of time. The twelve year limitation does not affect series produced in non-union situations. In these cases, which include a majority of series funded to date, in-school audiovisual use rights remain in perpetuity.

15. *Comment.—Distribution of programming—§ 185.72(c)(3).* It was suggested that it is inappropriate for the Office of Education to be jointly involved with procedures in program distribution, and that its role be limited only to situations where the producer is not making the programs it has produced reasonably available.

Response. No change was made in the proposed rule. The primary responsibility for distribution is, of course, with the producer. However, the Office of Education's efforts in distribution frequently involve attempts to coordinate distribution of programs produced by more than one producer. Further, insofar as funding generally covers a period which ceases when production is completed, producers may not be financially able to continue to pursue distribution efforts, and the Office of Education must assume this responsibility. Joint efforts by the Office of Education and the producers to enhance distribution result in wider distribution and airing than if just one party concerned itself with such an effort, and, therefore, such a joint effort furthers the legislative mandate which encourages maximum distribution of ESAA-TV programming.

16. *Comment.—Programming exclusivity—§ 185.72(c)(3).* It was suggested that the provision of a 13 week guarantee of per program exclusivity to each station in a market carrying a series, be expanded to allow exclusivity for the period necessary to complete a first run of all the programs in a series.

Response. It is the view of the Office of Education that 13 weeks of exclusivity per program is regarded as a use limitation which provides reasonable exclusivity, without violating the legislative requirement that programs be made reasonably available to all users.

17. *Comment.—Distribution costs—§ 185.72(c)(3).* It was suggested that a distributor should be allowed to include the cost of developing promotional materials, shipping, handling, tape duplication and related expenses in the fee structure they develop to arrive at the distribution costs charged to broadcast and nonbroadcast users.

Response. Incidental costs such as those incurred for shipping, handling, tape duplication and the development of promotional materials are allowable, and agree with the condition that the production be made reasonably available free of charge. Promotional costs are allowed, except where they result in an excessive price increase.

18. *Comment.—Retention of video tapes—§ 185.72(e).* It was suggested that producers be allowed to retain two, rather than one set of 2 inch tapes.

Response. The purpose for allowing producers to retain a set of tapes is to guarantee that the government cannot mandate delivery to itself of all tapes and thereby suppress the broadcast of a program. Allowing producers to retain a single set accomplishes this purpose.

19. *Comment.—Delivery of video tape cassettes—§ 185.72(e).* It was suggested that language be added which would clarify that the cassettes required to be delivered during series production may be used by the Office of Education solely for the purpose of ensuring that production is proceeding on schedule.

Response. No change is made in the proposed rule. The purpose of requiring cassette delivery during production is to ensure that production is proceeding on schedule. Any concern that the Office of Education is requiring this deliverable in order to interfere with the producer's right to exercise sole responsibility for content matters is unwarranted because the disclaimer in § 185.72(f) precludes the Office of Education from exercising any control over the content of the programming.

20. *Comment.—Delivery of programming scripts—§ 185.72(e).* It was suggested that the delivery of scripts not be required until completion of production, since to require earlier delivery could be "construed as * * * control of content by the U.S. Office of Education."

Response. No change is made in the proposed rule. Script delivery is not required until production terminates. In § 185.72(e), it is stated that scripts (Item (8)) "must be provided to the Assistant Secretary at the conclusion of the recipient's production activity."

21. *Comment.—Teacher guide materials—§ 185.72(e)(6).* It was suggested that teacher guide materials requested not be limited to a single page.

Response. The limitation of one page for the teacher guide in § 185.72(e)(6) has been deleted. However, programming produced under these regulations is intended primarily for home viewing rather than in-school use. The expense of producing, reproducing and distributing extensive teacher guides for programming which is viewed overwhelmingly in non-instructional settings would result in an unnecessary diversion of funds from production. There is no longer a restriction of one page per program. Instead, it is suggested that a brief guide be prepared. The definition of brevity will be left to the producer.

22. *Comment.—Disclaimer—§ 185.72(f).* It was suggested that the language of the disclaimer and the statement that the language reflects the Assistant Secretary's position does not fully guarantee a producer's independence with regard to content.

Response. No change was made in the proposed rule. The language of the disclaimer and the language following is understood to guarantee a producer's sole control over content.

23. *Comment.—Disclaimer—§ 185.72(f).* It was suggested that the disclaimer and the statement that this reflects the Assistant Secretary's intent, would preclude any governmental monitoring of productions "for taste and sensitivity."

Response. No change was made in the proposed rule. Producers are designated to receive funding only after an intensive competitive procedure based on published criteria which assures that only highly qualified organizations are funded. Neither "taste" nor "sensitivity" is specifically listed as a criterion in these regulations. Therefore, once an organization receives funding, it would be inappropriate for the government to impose its standards on those of the producer in such areas as "taste and sensitivity."

24. *Comment.—Deletion of citation.* It was noted that the deletion of the reference to § 185.13(a) in § 185.73(b) also requires a similar deletion in § 185.74(f).

Response. A technical change has been made to reflect this suggestion.

25. *Comment.—Indirect cost rates—§ 185.73(b).* It was suggested that the allowance of indirect cost rates to entities other than local educational agencies by deleting reference to § 185.13(a) is unfair because "most independent producers are profit-making organizations."

Response. No change was made in the proposed rule. The statute limits eligibility to nonprofit agencies, organizations and institutions. Therefore, profit-making organizations may not apply for funding under these regulations. (20 U.S.C. 1610(b))

26. *Comment.—Indirect costs.* It was suggested that producers continue to be required to break out "overhead" as indirect costs pursuant to §§ 185.73(b) and 185.13(a).

Response. To allow producers to use indirect cost rates brings the cost principles under these regulations in closer alignment with both accepted industry practice and other Office of Education television funding procedures. Local educational agencies, as required under the legislation, will continue to itemize all additional costs normally subsumed under "overhead," as stipulated pursuant to §§ 185.73(c) and 185.13(a).

27. *Comment.—Point awards for advisory committee and scheduling—§185.74(c)(4) and § 185.74(d).* It was suggested that under the criteria, points awarded for advisory committee participation and scheduling remain the same.

Response. No change was made in the proposed rule. Based on past experience, the Office of Education feels that the new scores for these two criteria more adequately reflect the scope and latitude of the activities with which they are concerned.

28. *Comments.—Retention of staff after pilot phase—§ 185.77.* It was suggested that additional flexibility be added to allow producers to make commitments to third parties beyond the pilot phase of production in order that producers can retain talent and staff during the period between the time a pilot program is delivered and a post-pilot continuation decision is made.

Response. No change was made in the proposed rule. This section allows producers to retain staff during this period until the continuation decision is rendered.

29. *Comment.—Post pilot phase copyright and distribution.* It was suggested that the present regulation does not clarify what rights the producer of a pilot has in a case where post-pilot production is not allowed. More specifically, the commenter wants to know if a producer retains a right to distribute that pilot for broadcast, or if such a producer has a right to retain copyright of the pilot production if copyright has been secured at the pilot stage.

Response. No change was made in the proposed rule. Nothing in the regulation differentiates between pilot and post-pilot productions. A producer currently has the right to distribute pilot materials as long as the proper disclaimer is published and as long as other conditions (such as making the production reasonably available, free of charge) are met. Any copyright matters would be subject to the appropriate sections of the General Education Provisions Regulations found in 45 CFR 100a.217, 45 CFR 100a.219, and 45 CFR 100a.234 and the guidelines mentioned in those sections.

30. *Technical changes.* It should also be noted that two additional technical changes have been made. The first, § 185.72(a)(6) states that the bilingual category is open to programming intended for children of all ages, not just those of elementary school age. The second eliminates a paragraph included, by error, in the proposed regulations, (No. 7 under § 185.74). The correct material, as stated in the proposed revision in § 185.74(d), remains.

31. *Rescission of guidelines.* The Commissioner of Education published guidelines for the Emergency School Aid Act Educational Television Program on February 11, 1976 at 41 FR 6111-6114. These guidelines are hereby rescinded except to the extent that applicants and contractors relied on them prior to this notice.

32. Only certain sections and paragraphs of subpart H were published for comment. However, for the ease of the reader, the entire revised text of Subpart H is published below.

After consideration of all comments, 45 CFR Subpart H of Part 185 is amended to read as set forth below.

NOTE.—The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance No. 13.530 Emergency School Aid Act—Educational Television)

Dated: April 26, 1977.

MARY F. BERRY,
Assistant Secretary for Education.

Approved: June 27, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health, Education, and Welfare.

Subpart H—Educational Television

Sec.
185.71 Eligibility for funds.
185.72 Authorized activities and areas of concern.
185.73 Proposals.
185.74 Criteria for awards.
185.75 Advisory committees.
185.76 Limitations on eligibility.
185.77 Required approval by Assistant Secretary of pilot materials.

Subpart H—Educational Television

§ 185.71 Eligibility for funds.

(a) Any public or private nonprofit agency, institution, or organization with the capability of providing expertise in the development of television programming and with access to facilities necessary for such development may apply for a contract from funds reserved pursuant to § 185.95(b)(3) to pay the cost of development and production of integrated children's television programs of cognitive and affective educational value. For purposes of this subpart, "programs of cognitive and affective educational value" are those which teach concrete academic skills and encourage interracial and interethnic understanding.

(20 U.S.C. 1610(a), (b)(1); Senate Rept. No. 92-61, p. 24)

(b) No more than ten contracts shall be awarded pursuant to this subpart during any fiscal year.

(20 U.S.C. 1610(b)(1))

§ 185.72 Authorized activities and areas of concern.

(a) Funds made available under this subpart shall be used to pay the normal and necessary expenses of researching, planning, writing, editing, staging, directing, performing, producing, reproducing, and distributing integrated children's television programs where such activities would not otherwise be funded and are designed to carry out the purposes described in § 185.01. Such programs shall compose television series of standard length programs in any fiscal year from one or more of the following categories as announced each year in the FEDERAL REGISTER:

(1) Additional programs of a national series (i.e., intended for national distribution) previously assisted under the Act (other than a series described in paragraph (a)(6) of this section);

(2) A national series (i.e., intended for national distribution) other than a series described in paragraphs (a)(1) and (a)(6) of this section, to improve the cognitive skills of minority and nonminority groups elementary school age children in one or more areas, such as mathematics, science, social studies, or language;

(3) A national series (i.e., intended for national distribution) other than a series described in paragraphs (a)(1) and (a)(6) of this section, to improve the cognitive skills of minority and nonminority group secondary school age children in one or more areas, such as mathematics, science, social studies, or language;

(4) A national series (i.e., intended for national distribution) other than a series described in paragraphs (a)(1) and (a)(6) of this section, to foster interracial and inter-ethnic understanding among elementary school age children;

(5) A national series (i.e., intended for national distribution) other than a series described in subparagraphs (a)(1) and (a)(6) of this section, to foster interracial and inter-ethnic understanding among secondary school age children;

ries described in paragraphs (a)(1)

(6) A national (i.e., intended for national distributors) children's bilingual series of cognitive and/or affective education value. A bilingual series is a series consisting of programs which contain no more than 60 percent of its content in one of the two languages it offers;

(7) Up to three new "regional" series intended for less than nationwide utilization meeting the special needs of subgroups of minority groups as defined in § 185.02(f) which may be unique to a particular geographic region; or

(8) Additional programs from up to two "regional" series previously funded under the Act intended for less than nationwide utilization meeting the special needs of subgroups of minority groups as defined in § 185.02(f) which may be unique to a particular geographic region.

(20 U.S.C. 1610(b)(1).)

(b)(1) No more than one contract for a standard-length series shall be awarded for any one of the areas of concern described in paragraphs (a)(1), (2), (3), (4), (5), and (6) of this section in any fiscal year, and no more than a maximum of five contracts shall be awarded for "regional" programming as described in subparagraphs (a)(7) and (a)(8) of this section in any fiscal year, unless the Assistant Secretary determines that the proposals pending for additional contracts for programming directed to the same area of concern are of exceptional merit or promise.

(2) No more than one contract shall be awarded for television programming directed to a particular racial or ethnic group in a particular geographical area in any fiscal year, unless the Assistant Secretary determines that the proposals pending for additional contracts for programming directed to the same group in the same area are of exceptional merit or promise.

(3) No contract awarded for "regional" programming as described in paragraphs (a)(7) and (a)(8) of this section shall exceed $300,000 in amount.

(20 U.S.C. 1610(b)(1))

(c)(1) Television programs developed in whole or in part with funds made available under this subpart shall be made reasonably available for transmission, free of charge, and shall not be transmitted under commercial sponsorship. Broadcast and nonbroadcast users of such programs may not be charged any cost beyond (i) the cost of tape duplication and, (ii) where there is a contract between a recipient and a talent union as described in paragraph (c)(2) of this section, the cost of payments to members of such talent union for usages beyond those usages specified in such contract.

(2) Any contract between a recipient of funds under this subpart and a talent union must allow at least the following usages of the television programs assisted (except in cases where the Assistant Secretary finds that the cost of such usages would be excessive and authorizes lesser usages), charges for which may not be passed on to users:

(i) Six years of usage by public television stations (a year of usage being defined, for this purpose, as unrestricted use during three separate weeks of any given program within a series) this six-year period to commence with the first broadcast by any public station;

(ii) One broadcast by any single commercial television station (in addition to the commercial station broadcasts in subdivision (iv) of this subparagraph) where there is no public television serving that station's coverage area or where all public television stations serving that station's coverage area have exercised a right of first refusal of a regional or national public network feed;

(iii) Twelve years of unrestricted use in in-school audiovisual contexts, including transmission by education-dedicated, local origination CATV channels and Instructional Television Fixed Service systems; and

(iv) One broadcast in each of two three-year periods over commercial stations in any coverage area, including network originated broadcasts.

(3) Arrangements for making the television programs developed with funds under this subpart reasonably available for transmission, free of charge, shall be undertaken by the recipient and shall be subject to the approval of the Assistant Secretary; however, the Assistant Secretary may in addition assume the responsibility for making such arrangements if such action is deemed appropriate. A recipient may not restrict usages, except as provided in paragraph (c)(1) of this section or by an agreement giving exclusivity to the first station in a coverage area the right to broadcast a program (whether or not the result of a network origination), until the thirteenth week following the week in which each such program is first broadcast.

(4) For purposes of this paragraph, where the costs of transmission are met by a commercial firm, a brief statement to that effect at the beginning or end of such transmission shall not be considered commercial sponsorship.

(5) No television program developed in whole or in part with funds made available under this subpart shall be used or transmitted in such a manner as to result in a financial benefit to any person or organization.

(20 U.S.C. 1610(b)(2); Senate Rept. No. 93-81, pp. 24-25)

(d) Funds made available under this subpart shall not be used for construction, repair, or remodeling of any building or facility, or for the purchase of any equipment which has a useful life of more than one year and is not consumed in use, except where it can be demonstrated that the purchase of specific items of equipment will cost less than their rental. For purposes of this paragraph, "construction, repair, or remodeling" includes construction of buildings and facilities and structural alterations, renovations, and remaking of existing buildings and facilities or space therein.

(20 U.S.C. 1610(b)(1))

(e) *Deliverables*. Recipients of funds under this subpart must produce the following items, of which those described in subparagraphs (3), (4), (6), and (7) of this paragraph must be provided to the Assistant Secretary at intervals specified by the Assistant Secretary, and of which those described in subparagraphs (1), (2) (except for one dub which may be retained by the recipient), (5), and (8) must be provided to the Assistant Secretary at the conclusion of the recipient's production activity:

(1) One master two-inch color highband video tape of each production in the series;

(2) Four first generation two-inch color highband video tape dubs of each production in the series (except that only two dubs shall be required for programming described in § 185.72(a)(7) and (8));

(3) One three-quarter-inch cassette tape of each production in the series;

(4) One three-quarter-inch cassette tape of a pilot production;

(5) Three one-minute promotional spots, with a 20-second liftout of each, to be delivered as:

(i) A composite tape of all six spots on a two-inch highband color, master video tape;

(ii) Four composite tapes of all six spots as first generation two-inch highband color, video tape dubs (except that only two tapes shall be required for programming described in § 185.72(a)(7) and (8)); and

(iii) A three-quarter inch composite video tape of all six spots;

(6) Five copies of brief teacher guide materials in final form for each production;

(7) Five copies of pilot production test results; and

(8) One set of final scripts.

(20 U.S.C. 1610(b)(1))

(f) *Disclaimer*. Each program in a series assisted under this subpart must carry the following disclaimer: "This program was produced by [*Name of Recipient*] under a contract from the U.S. Department of Health, Education, and Welfare, Office of Education. The content of this program is the responsibility of the contractor and no official endorsement by the Department, or the Office of Education, is to be inferred." Such language reflects the position of the Assistant Secretary.

(20 U.S.C. 1610(b)(1))

§ 185.73 Proposals.

(a) *General*. (1) A proposer for a contract under this subpart for any fiscal year shall submit to the Assistant Secretary a proposal therefor for that fiscal year, which proposal shall be in a form specified by the Assistant Secretary and shall contain such information and set forth such policies and procedures as will assure that the proposer will use funds received under this subpart only for the activities described in § 185.72.

(2) The proposal must make provision for production of prototypical pilot materials.

(20 U.S.C. 1610(b)(1))

(b) *Basic assurances*. Proposals for funds under this subpart shall comply with the requirements of § 185.13 (b), (c), (d), (f), (h), (k)(1)(i) and (ii), (k)(2), and (m).

(20 U.S.C. 1609(a), 1610(b)(1))

(c) *Assurances by local educational agencies*. Proposals by local educational agencies for funds under this subpart shall comply with the requirements of § 185.13 (a), (g), (i), (j), (k)(1)(iii), (k)(2), (l), and (n), in addition to the requirements specified in paragraphs (b) and (c) of this section. Such proposals, together with all correspondence and other written materials relating thereto, shall be made readily available to the public by the proposer and the Assistant Secretary.

(20 U.S.C. 1609(a), 1610(b)(1))

(d) *Assurance by other proposers.* Proposals by public or private nonprofit agencies, institutions, or organizations (other than local educational agencies) under this subpart shall comply with the requirements of § 185.63(b) (2) and (5) in addition to the requirements specified in paragraphs (b) and (e) of this section.

(20 U.S.C. 1609(a) and 1610(b)(1))

(e) *Additional information and assurances.* Proposals for funds under this subpart shall contain the following information, in addition to the assurances and information required by the other applicable paragraphs of this section:

(1) A detailed description of the integrated children's television programs to be developed and produced with funds made available under this subpart, together with an identification of the audience to be reached by such programs and a statement of the educational and other gains to be achieved;

(2) A statement of the name, address, position, duties, prior experience in educational television and school and community affairs, and race of all persons permanently employed (or to be employed) in positions of responsibility by the proposer on the development, production, and administrative staffs of the project;

(3) A detailed description of the evaluation procedures to be employed by the proposer pursuant to § 185.77 in measuring and evaluating the program appeal of, and the educational and other changes to be achieved by, the television programs for which funds are sought;

(4) A statement of (i) past activities engaged in by the proposer or its officers or employees indicating the relative capability of the proposer to provide expertise in the development of integrated children's television programming, and to develop and produce the proposed television programs, and (ii) the access of the proposer to facilities necessary for such development and production;

(5) A budget detailing all costs of the proposed project; and

(6) For programming described in § 185.72(a) (1) and (3), a three-quarter inch videotape cassette of two programs previously assisted if of half-hour or quarter-hour length, or one program previously assisted if of one-hour length.

(20 U.S.C. 1610(b) (1) and (3))

(f) *Proposal procedure.* The Assistant Secretary may require the information described in this section to be submitted either in a single proposal or sequentially, and may require additional information and assurances of selected proposers.

(20 U.S.C. 1610(b)(1))

§ 185.74 Criteria for awards.

In reviewing and approving proposals for contracts under this subpart, the Assistant Secretary shall apply the following criteria:

(a) *Needs assessment (10 points).* The extent to which the proposer has undertaken a comprehensive assessment, on the basis of test data, audience surveys, and other objective evidence, of the educational and other needs of the target population, and the magnitude of the needs so assessed.

(20 U.S.C. 1610(b)(1))

(b) *Statement of objectives (15 points).* The degree to which the proposer sets forth specific objectives which:

(1) articulate with the needs described by the proposer in its proposal;

(2) are capable of attainment through the proposed television series; and

(3) are shown to have been derived by persons possessing relevant professional and experiential background, and who include, to a significant degree, persons representative of the racial and ethnic populations to be served by the series.

(20 U.S.C. 1610(b)(1), 1610(b)(3)(A))

(c) *Activities (66 points)*—(1) *Program content and design (40 points).* The extent to which the proposed television programming promises to reach the expected or potential target audience and to encourage and sustain the participation, interest, and educational and other growth of such audience, and the extent to which the programming can stand by itself as effective instruction without the necessity for teacher assistance;

(2) *Staffing (19 points).* (i) The extent to which the proposal sets out an overall staff plan clearly delineating positions and responsibilities and maximizing staff capabilities;

(ii) The extent to which minority group persons will occupy key creative, administrative and executive decision-making project positions; and

(iii) The extent to which provision is made for on-the-job-training, in full-time positions over the entire project period, to enable such trainees to become qualified to assume positions of technical and professional responsibility;

(3) *Supplementary materials (2 points).* The extent to which the proposal sets forth a plan for developing a guide which will provide teachers employing the series in classroom work with suggestions for varied, realistic and effective ancillary classroom activity; and

(4) *Advisory committee participation (5 points).* The extent to which the proposal (i) clearly delineates specific opportunities for continuing advisory committee participation in the development and evaluation of the proposed television programming in addition to those required by § 185.75, and (ii) includes evidence that such participation has been encouraged and has in fact occurred.

(20 U.S.C. 1610(b)(1), 1610(b)(3)(A))

(d) *Scheduling (4 points).* The quality of a detailed flow chart or milestone chart, submitted with the proposal, of activities sufficient to accomplish all proposed tasks.

(20 U.S.C. 1610(b)(1))

(e) *Formative evaluation (5 points).* The extent to which the proposal sets out a detailed format, including specific study design, for applying formative evaluation techniques prior to and during a pilot phase of production of the proposed television programming, in order to determine the production and presentation techniques which offer the greatest promise of achieving the stated objectives.

(20 U.S.C. 1610(b)(1), 1610(b)(3)(C))

(f) *Funding criteria.* In determining amounts to be awarded to proposers for funds under this subpart, the Assistant Secretary shall consider the additional cost to each proposer of effectively developing and producing its proposed television programming, in relation to the amount of funds available under this subpart and the other proposals for such funding pending before him. The Assistant Secretary shall not be required to approve any proposal which does not meet the requirements of the Act or this part, or which sets forth proposed television programming of such insufficient promise for achieving the purposes of the Act that its approval is not warranted, or which sets forth projected costs that are unreasonable in relation to projected outcomes, or which is not supported by a record of past activities engaged in by the proposer or its officers or employees indicating capability for implementing the proposal. In applying the criterion set out in this paragraph, the Assistant Secretary shall award funds to proposers (whose proposals meet such requirements and are of sufficient promise to warrant approval) in order of their ranking on the basis of the criteria set out in this section until the sums available for the purposes of this subpart have been exhausted.

(20 U.S.C. 1610(b)(1))

(g) In making the determinations required under this section, the Assistant Secretary is authorized to purchase or utilize the services, recommendations, and advice of experts in the areas of education, educational television, and human relations from the Department, other Federal agencies, State or local governmental units, or the private sector.

(20 U.S.C. 1610(b) (1) and (3))

§ 185.75 Advisory committees.

(a) Public or private nonprofit agencies, institutions, or organizations (other than local educational agencies) submitting proposals for contracts under this subpart shall comply with the requirements as to advisory committee participation set forth in § 185.65, except as follows:

(1) References in said section to a "district-wide advisory committee" shall be understood to be references to an advisory committee representing the entire area to be served by the proposed television programming, and references in said section to a "program, project, or activity" shall be understood to refer to the proposed television programming for which funds are sought.

(2) (i) The requirements of § 185.65(b) shall not apply to proposals submitted under this subpart. References in § 185.65 to paragraph (b) of said section shall

be understood to refer to the provisions of this subparagraph (2).

(ii) A proposer shall designate at least five civic or community organizations, each of which shall select a member of the proposer's advisory committee. The civic or community organizations which participate in the selection process shall, when taken together rather than considered individually, be broadly representative of the minority and nonminority communities to be served.

(iii) A committee formed under this paragraph must be composed of equal numbers of nonminority group members and of members from each minority group substantially represented in the area to be served by the proposed television programming. At least 50 percent of the nonstudent members of such committee, to be selected by the proposer, shall be parents of children at whom the proposed television programming for which funds are sought will be directed.

(iv) Where the proposed television programming will be directed at secondary school age students, at least 50 percent of the total membership of the committee, to be selected by the proposer, must be secondary school students enrolled in a secondary school or schools located within the area to be served by the proposed television programming. Among such student members there must be equal numbers of nonminority group persons and persons from each minority group substantially represented in the area to be served by the proposed television programming.

(3) The post-award consultation described in § 185.65(d) shall be at least once every three months.

(20 U.S.C. 1610(b)(1))

(b) Local educational agencies submitting proposals for contracts under this subpart shall comply with the requirements as to advisory committee participation and public hearings set forth in § 185.41 (a) through (g), except as follows:

(1) References in said section to a "district-wide advisory committee" shall be understood to be references to an advisory committee representing the entire area to be served by the proposed television programming, and references in said section to a "program, project, or activity" shall be understood to refer to the proposed television programming for which funds are sought.

(2) The designation of teachers pursuant to § 185.41(c)(2) and students (who must be designated only where the proposed television programming will be directed at secondary school age students) pursuant to § 185.41(c)(4) shall be with reference to the entire area to be served by the proposed television programming.

(3) The post-award consultation described in § 185.41(e) shall be at least once every three months.

(20 U.S.C. 1609(a) (2) and (3), 1609(b))

§ 185.76 Limitations on eligibility.

The limitations on eligibility set forth in § 185.43 shall apply to educational agencies submitting proposals for funds under this subpart. The provisions of § 185.44 as to waiver of ineligibility shall apply to local educational agencies submitting proposals for funds under this subpart. The provisions of § 185.45 as to termination of assistance shall apply to all recipients of assistance under this subpart.

(20 U.S.C. 1605(d), 1609(a) and (b), 1610(b)(1))

§ 185.77 Required approval by Assistant Secretary of pilot materials.

A recipient of funds under this subpart must produce prototypical pilot materials at times specified by the Assistant Secretary. A recipient of funds for additional programs of a series previously assisted under the Act may use for this purpose a program produced with its most recent assistance. The recipient must then conduct an evaluation of such materials to serve as the formative evaluation for the series. No commitments by the recipient relating to production activity beyond the conduct of this evaluation will be recognized by the Assistant Secretary unless a favorable decision on project continuation is made by the Assistant Secretary. Any party with whom the recipient enters into a commitment for such production activity prior to such a favorable decision must be informed of this possibility of nonrecognition at the time the commitment is entered into. An unfavorable decision on project continuation shall be a basis for termination pursuant to § 185.45.

(20 U.S.C. 1609(a)(15), 1610(b)(1), 1610(b)(3)(C))

[FR Doc.77-18798 Filed 6-30-77;8:45 am]

Appendix 3

A Summary of Federal Aid under the Emergency School Aid Act (Title VII of PL 92-318) as amended by the Education Amendments of 1974 (PL 93-380)

This document is intended to present significant features of programs funded under the ESAA but should not be regarded as a substitute for reading the Act and the regulations.

DISCRIMINATION PROHIBITED-- No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance, or be so treated on the basis of sex under most education programs or activities receving Federal assistance.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Joseph A. Califano, Jr., Secretary
Mary F. Berry, Assistant Secretary

OFFICE OF EDUCATION
Ernest L. Boyer, Commissioner
Thomas K. Minter, Deputy Commissioner for Elementary and Secondary Education
Herman R. Goldberg, Associate Commissioner for Equal Educational Opportunity Programs

April 1977

EMERGENCY SCHOOL AID ACT (ESAA)
Title VII of Public Law 92-318,
as amended by Public Law 93-380

PURPOSES OF ESAA

(1) To meet the special needs incident to the elimination of minority group segregation and discrimination among students and faculty in elementary and secondary schools;

(2) To encourage the voluntary elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority group students; and

(3) To aid school children in overcoming the educational disadvantages of minority group isolation.

Assistance is available to eligible school systems, and certain other organizations, for instructional services, human relations efforts, and certain other activities related to the process of eliminating, reducing, and preventing minority group isolation, or the operation of an integrated school.

MINORITY GROUPS

The term "minority group" refers to (i) persons who are Negro or black, American Indians, Spanish-surnamed American, Portuguese, Oriental, Alaskan natives, and Hawaiian natives and (ii) (except for the purposes of determining State apportionments), as determined by the Assistant Secretary for Education, persons who are from environments in which a dominant language is other then English and who, as a result of language barriers and cultural differences, do not have an equal educational opportunity.

MINORITY GROUP ISOLATION

The Act provides that the terms "minority group isolated school" and "minority group isolation" in reference to a school mean a school and condition, respectively, in which minority group children constitute more than 50 percent of the enrollment of a school.

KINDS OF ESAA AID

Several types of assistance are available to local educational agencies (LEA's) and certain other organizations. The types of assistance and the percent of appropriation available for each type, are:

Basic Grants to School Districts	79%
Pilot Projects (up to 15%)	
Grants to Nonprofit Organizations	8%
Bilingual-Bicultural Programs	4%
Educational Television	3%
Special Programs	5%
National Evaluation	1%

BASIC GRANTS TO SCHOOL DISTRICTS

Eligibility

A local educational agency may be eligible for a Basic Grant if it is implementing

(1) a court-ordered desegregation plan; or
(2) a plan approved by the Office for Civil Rights under Title VI of the Civil Rights Act; or
(3) a voluntary plan to eliminate or reduce minority group isolation in one or more of its schools; or
(4) a voluntary plan to prevent minority group isolation which is likely to occur in one or more of its schools; or
(5) a plan to enroll non-resident children in its schools; or

A local educational agency may be eligible for a basic grant to establish or maintain one or more integrated schools if:

(1) minority group children comprise more than 50 percent of the total enrollment, and

(2) the LEA agrees to apply for pilot project assistance.

Activities

The Act specifies 12 kinds of activities for which eligible school districts can receive Federal support under the Basic Grant program. They are:

- o Special remedial services
- o Additional professional or other staff
- o Teacher aides
- o Inservice staff training
- o Guidance, counseling and student services
- o New curricula and instructional methods and materials
- o Career education and other activities using shared facilities
- o Community activities
- o Administrative and auxiliary services
- o Planning, evaluation and dissemination
- o Minor school facility repair or remodeling
- o Innovative interracial activities (inter/intradistrict)

Application Highlights

Applications for Basic Grants must:

- Be developed in open consultation with parents, teachers, and secondary school students.
- Be developed with participation of a multi-racial advisory committee accompanied by comments of committee members.
- Include provisions for participation of nonpublic school children.
- Provide the State educational agency with a reasonable opportunity to offer recommendations on program development.
- Include effective procedures for continuing evaluation of the program.
- Include a copy of the desegregation plan or (where a plan will be implemented if ESAA funds are awarded) evidence that the plan has been published in a newspaper.

For detailed information, contact the Regional Office, Equal Educational Opportunity Programs, Bureau of Elementary and Secondary Education. (A list of the U.S. Office of Education Regional Offices is attached.)

PILOT PROJECTS

Eligibility

(1) School districts which enroll more than 15,000 minority group students or whose enrollment of minority group students exceeds 50 percent of the total number of children enrolled during the fiscal year preceding the fiscal year for which assistance is to be provided and who are implementing one of the five types of plans outlined on page 2 may be eligible for funds.

(2) Districts whose enrollment of minority group students exceeds 50% of the total may be eligible for pilot project assistance regardless of whether the district receives a basic grant, so long as it maintains during the period of its assistance one or more schools which meet the requirements for the establishment of an integrated school.

Activities

Same as Basic Grants to School Districts. In addition, Pilot Projects should be innovative and suitable for replication.

Application Highlights

Same as Basic Grants to School Districts

For detailed information contact the Regional Office, Equal Educational Opportunity Programs, Bureau of Elementary and Secondary Education.

GRANTS TO NONPROFIT ORGANIZATIONS

Eligibility

Any public agency, institution, or organization (other than a local educational agency) and any nonprofit private agency, institution or organization may apply for funds. The activities must be designed to support a local educational agency's development or implementation of a desegregation plan or project described in the Basic Grants to School Districts Section or at the request of the LEA to assist in the development of such a plan.

Activities

The Act specifies 12 kinds of activities for which eligible nonprofit organizations can receive Federal support under the Nonprofit Organization program. They are:

- Career orientation educational programs
- Innovative interracial educational enrichment programs or projects (involving parents, where appropriate)
- Supplemental remedial services to students
- Administrative and auxiliary services
- Preparation of children and parents for desegregation
- Dropout prevention, suspension and expulsion programs
- Interracial social and recreational programs
- Interracial cultural enrichment activities (including parents, where appropriate)
- Home-focused enrichment programs for children affected by the LEA's plan
- Assistance to an LEA in the development of a desegregation plan or project
- Special programs or projects of exceptional merit, as determined by the Assistant Secretary for Education
- Community activities (including public information and parent involvement)

Application Highlights

Applications for nonprofit grants:

- Should indicate the extent of consultation and liaison with other public or nonprofit private agencies, institutions or organizations
- Must contain a copy of the organization's certificate of incorporation or similar evidence of nonprofit status.
- Should indicate the extent of cooperation with the local educational agency, and
- Must show evidence of consultation with an advisory committee.

For detailed information, contact the Regional Office, Equal Educational Opportunity Programs, Bureau of Elementary and Secondary Education.

BILINGUAL PROJECTS

Eligibility

For LEA's, same as Basic Grants to School Districts, plus enrollment of children from environments in which a dominant language is other than English.

For nonprofit private agencies, a request from an eligible LEA to develop bilingual programs.

Activities

For LEA's

- Development of reading, writing and speaking skills in English and the primary language of the students.
- Activities to promote understanding of the minority group students from environments in which a dominant language is other than English and activities to acquaint their classmates with the history and culture of the minority group

For Nonprofit Private Agencies

- Development of educational programs including the skills and activities mentioned above, at the specific request of one or more local educational agencies.

Application Highlights

Generally, the same as Basic Grants to School Districts. In addition, bilingual applicants must include a plan for implementation of any program developed or proposed to be developed and a plan for inservice training of teachers and other educational personnel.

For detailed information,contact the Regional Office, Equal Educational Opportunity Programs, Bureau of Elementary and Secondary Education.

EDUCATIONAL TELEVISION PROJECTS

Eligibility

Public or private nonprofit agencies or organizations capable of developing educational television programming to meet the purposes of the Act.

Activities

Development and production of children's television programming in one of the following areas of concern:

- Fostering interracial and interethnic understanding among students
- Improvement of cognitive skills of minority and nonminority elementary children in one or more areas, such as mathematics, science, social studies, or language, including language skills of children from non-English dominant backgrounds
- Improvement of written and oral expression of secondary students with linguistic and grammatical deficiencies
- Meeting the special needs of minority subgroups which may be unique to a particular geographic region through a program series intended for less than nationwide utilization.

Proposals

Information is contained in the program guidelines.

For detailed information,contact the Special Projects Branch, Equal Educational Opportunity Programs, Room 2017, U.S. Office of Education, Washington, D.C. 20202.

SPECIAL PROJECTS

In addition to the comprehensive aid specifically provided for in the Act, a portion of ESAA funds are reserved for special projects serving the purposes of the Act as determined by the Assistant Secretary.

These funds are to be used for:

- Aid to school districts in U.S. jurisdictions other than States or the District of Columbia.
- Special arts projects in integrated schools administered by organizations with statewide arts education responsibility.
- Special student concerns projects designed to reduce the incidence of student suspension and expulsion as a result of the school desegregation process.
- Grants to LEAs implementing eligible plans described in the Basic Grants to School Districts section too late to have applied during the normal funding cycle.
- Special Mathematics Projects

For detailed information, contact the Special Projects Branch, Equal Educational Opportunity Programs, Bureau of Elementary and Secondary Education, Room 2017, U.S. Office of Education, Washington, D.C. 20202.

U. S. Office of Education Regional Offices

Region I (Boston) - Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont. U.S. Office of Education, Equal Educational Opportunity, John Fitzgerald Kennedy Federal Building, Government Center, Room 2303, Boston, Massachusetts 02203.

Region II (New York City) - New York and New Jersey. U.S. Office of Education, Equal Educational Opportunity, Federal Building, 26 Federal Plaza, Room 3954, New York, New York 10007.

Region III (Philadelphia) - Delaware, District of Columbia, Maryland, Pennsylvania, Virginia and West Virginia. U.S. Office of Education, Equal Educational Opportunity, P. O. Box 13716, Philadelphia, Pennsylvania 19101.

Region IV (Atlanta) - Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee. U.S. Office of Education, Equal Educational Opportunity, 50 Seventh Street, N.E., 5th Floor, Atlanta, Georgia 30323.

Region V (Chicago) - Illinois, Indiana, Minnesota, Michigan, Ohio and Wisconsin. U.S. Office of Education, Equal Educational Opportunity, 300 South Wacker Drive, Chicago, Illinois 60606.

Region VI (Dallas) - Arkansas, Louisiana, New Mexico, Oklahoma and Texas. U.S. Office of Education, Equal Educational Opportunity, 1200 Main Tower Building, 14th Floor, Dallas, Texas 75202.

Region VII (Kansas City) - Iowa, Kansas, Missouri and Nebraska. U.S. Office of Education, Equal Educational Opportunity, New Federal Office Building, 601 East 12th Street, Kansas City, Missouri 64106.

Region VIII (Denver) - Colorado, Montana, North Dakota, South Dakota, Utah and Wyoming. U.S. Office of Education, Equal Educational Opportunity, 1961 Stout Street, Denver, Colorado 80202.

Region IX (San Francisco) - Arizona, California, Hawaii,
Nevada, American Samoa, Guam and the Trust Territory
of the Pacific Islands. U.S. Office of Education,
Equal Educational Opportunity, Federal Office Building,
50 United Nations Plaza, Room 251, San Francisco,
California 94102.

Region X (Seattle) - Alaska, Idaho, Oregon and Washington.
U.S. Office of Education, Equal Educational Opportunity,
Arcade Building, M/S 1505, 1321 Second Avenue, Seattle,
Washington 98101.

Appendix 4

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

Mr. John F. Jennings
Committee on Education & Labor
House of Representatives
Room 346 C Rayburn HOB
Washington, D.C.

Dear Mr. Jennings:

With this letter, I am transmitting to you the final results from a 3-year national evaluation of the impact of the Emergency School Aid Act (ESAA) Basic and Pilot Project Grants programs on participating students, conducted under contract by the System Development Corporation of Santa Monica, California. An Executive Summary of the findings has been provided to members of Congressional education committees. As you may be interested in the more detailed findings, I am enclosing a copy of the full report.

The principal findings are:

(a) Results from all three years of the evaluation indicate that ESAA funds are being allocated to school districts whose students have acute academic needs. Recipient school districts and schools translated their ESAA funds into services appropriate for their students, and focused these services most heavily on students with the greatest academic need.

(b) For ESAA schools, approximately two-thirds of the total supplemental funds (ESAA and non-ESAA supplemental) are spent on instruction in basic skills (Reading and Mathematics).

(c) Although no evidence of program impact was found in the first two years of the evaluation, the results from the third year indicate that elementary-grade students participating in the Basic Grants program performed significantly better in Reading and Mathematics than non-ESAA students. This finding is consistent with the fact that only in the Basic Elementary sample (and not in the Basic Secondary or Pilot Elementary samples -- the other two groups evaluated) did ESAA schools have significantly higher total per-pupil expenditures levels than non-ESAA schools.

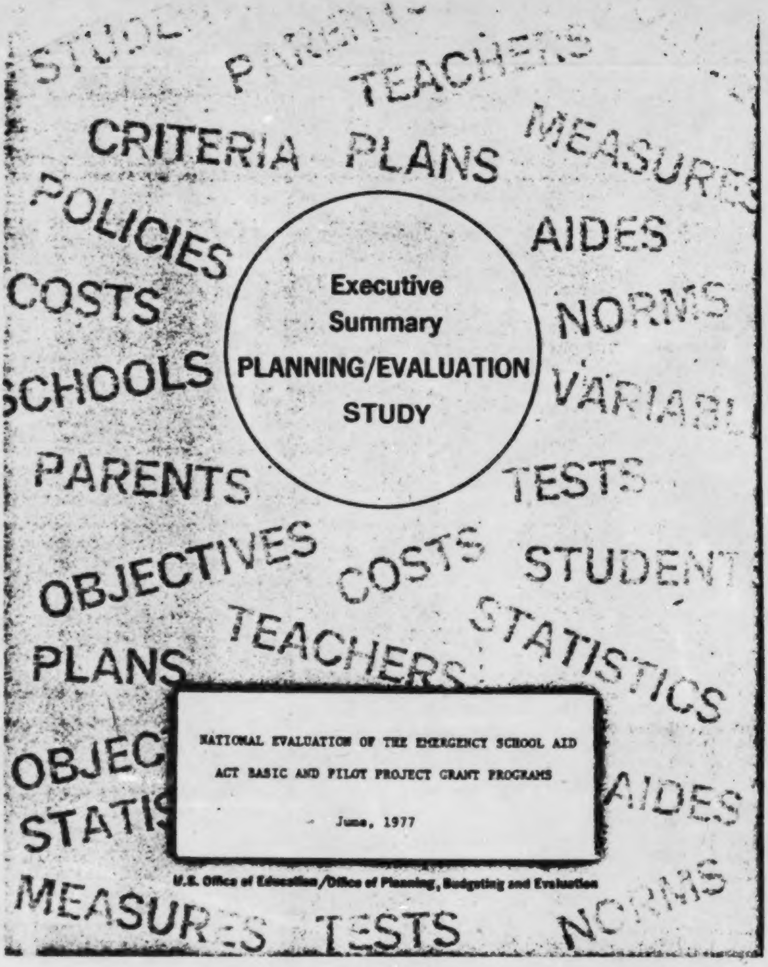
If you would like any additonal information, please contact David M. Shoemaker, 400 Maryland Avenue, S.W., Room 3044, Washington, D.C., telephone (202) 245-2371.

Sincerely,

John W. Evans

John W. Evans
Assistant Commissioner for
Planning, Budgeting, and Evaluation

Enclosure



STUDENTS
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NORMS

Executive Summary

PLANNING/EVALUATION STUDY

NATIONAL EVALUATION OF THE EMERGENCY SCHOOL AID
ACT BASIC AND PILOT PROJECT GRANT PROGRAMS

June, 1977

U.S. Office of Education/Office of Planning, Budgeting and Evaluation

NATIONAL EVALUATION OF THE EMERGENCY SCHOOL AID ACT BASIC AND PILOT PROJECT GRANT PROGRAMS

June, 1977

BACKGROUND

In June 1972, the Emergency School Aid Act (ESAA) was enacted into law (PL 92-318, as amended by PL 93-380 and PL 94-482) to provide local educational agencies with financial assistance to (a) meet the special needs incident to the elimination of minority-group segregation and discrimination among students and faculty in elementary and secondary schools, (b) encourage the voluntary elimination, reduction or prevention of minority-group isolation in elementary and secondary schools with substantial proportions of minority-group students, and (c) aid school children in overcoming the educational disadvantages of minority-group isolation. Eight subprograms are authorized under the ESAA legislation: Basic Grants, Pilot Project Grants, grants to nonProfit Organizations, Bilingual Projects, Educational Television, Metropolitan Area Projects, Special Projects, and Evaluation. The first three are State apportionment programs; the remaining five, discretionary programs. During the 1974, 1975 and 1976 fiscal years, approximately 75 per cent of the ESAA-appropriated funds were allocated to the Basic Grants and Pilot Project Grants subprograms.

The Basic Grant subprogram is a desegregation assistance program in which grants are awarded to eligible school districts to encourage the reduction of minority-group isolation, to meet the special needs incident to the elimination of segregation and discrimination, and to assist elementary and secondary school children in overcoming the educational disadvantages associated with minority-group isolation. Basic Grants may be awarded to any Local Education Agency which (a) is implementing a desegregation plan or has adopted and will implement such a plan if assistance is made available, or (b) has a plan to enroll non-resident children in its schools to reduce minority-group isolation, or (c) has no desegregation plan but has minority-group student enrollment exceeding 50 percent, provided that the Local Education Agency establishes or maintains at least one integrated school. In contrast to Basic Grants, Pilot Project Grants are awarded to Local Education Agencies for unusually promising projects designed to overcome the adverse effects of minority-group isolation by improving the academic achievement of children in minority-isolated schools (i.e., schools with 50 per cent or greater minority enrollment.) To be eligible for a Pilot Grant, a Local Education Agency must be implementing a desegregation plan or a plan to reduce minority-group isolation that would make it eligible for a Basic Grant. In addition, at least 15,000 minority-group students must be enrolled in the schools of the Local Education Agency, or minority-group students must constitute more than 50 per cent of the total Local Education Agency enrollment.

In 1973, the U.S. Office of Education's Office of Planning, Budgeting and Evaluation contracted with the System Development Corporation of Santa Monica, California to conduct a national evaluation of the effectiveness of the Basic Grants and Pilot Project Grants subprograms. The major questions addressed in the evaluation were:

- What kinds of students participate in ESAA Basic Grant and Pilot Project Grant programs?
- What kinds of districts and schools receive ESAA support?
- What are the funding patterns in ESAA districts and schools?
- How are ESAA and other funds translated into services? How successfully are services targeted toward needy students?
- What is the short-term and long-term national impact of ESAA in terms of Congressionally-authorized program goals?
- What kinds of school programs have most successfully produced gains in student achievement?

METHODOLOGY

The general design of the evaluation was one of contrasting the performance of two groups of students: those participating in an ESAA-funded program and comparable students not participating in such a program. Starting in fall 1973, students in grades 3 through 5 and 10 through 12 were pretested and posttested for three academic years, with students in grades 5 and 12 leaving the sample each year.

Standardized achievement tests were used to measure student achievement in Reading and Mathematics. Student perception of school climate (relationships between student and teacher/principal) was assessed by the School Climate Questionnaire. Additional questionnaires were used to gather student background data, district/school demographic data, determine district/school expenditures, and determine the characteristics of the education program. Attendance and exposure logs were used to measure student exposure to instruction.

School districts receiving ESAA Basic or Pilot Project Grants in 1973 were divided into 3 categories: those receiving a Basic Grant for programs involving elementary grade students, those receiving a Basic Grant for secondary students, and those receiving Pilot Project Grants for elementary grade students. (School districts receiving Pilot Project Grants for secondary grade students were not considered because the number of such districts was very small.) Within each category, a representative sample of school districts was selected for participation in the evaluation. In any one year (of the 3-year evaluation), 32 school districts were in the Basic Elementary sample, 15 in the Basic Secondary sample, and 18 in the Pilot Elementary sample. Within each school district included in the evaluation, two ESAA-eligible and comparable schools were randomly selected; one was given ESAA funding, the other was not funded by ESAA.* Within each school participating in the evaluation, students were sampled randomly over classrooms for a given grade level. In any one year, approximately 27,000 students were tested in 130 schools.

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* Some deviations from this pattern occurred in the third year. See Table 1.

FINDINGS

What kinds of students receive ESAA services?

- In the Basic Elementary sample, the percentage of minority-group students was 50; for the Basic Secondary, 42; and, for the Pilot Elementary, 85.

- According to teachers, students in all three samples were of low socioeconomic status (parents had low status jobs and relatively little education).

- Regarding student achievement at Fall pretest time (all three years), mean test scores ranged from the 17th to 38th percentiles. Achievement was higher in Reading than Mathematics, and higher for non-minority students.

What are the funding patterns in ESAA schools (treatment) and how do they differ from the non-ESAA schools (control)?

Table 1

Per-Pupil Expenditures For Third Year (1975-76)

	Basic Elementary		Basic Secondary		Pilot Elementary	
Funding Source	T	C	T	C	T	C
Regular district funds	$1032	$1040	$1021	$ 922	$ 917	$ 908
ESAA	321	34	91	32	329	168
Non-ESAA supplemental	196	95	3	1	91	130
Total Supplemental	517	129	94	33	419	298
Total (all sources)	1549	1169	1115	1025	1336	1206

Only the Basic Elementary sample showed a significant (treatment-control) difference in total per-pupil funding favoring the ESAA schools.

How are supplemental expenditures allocated within ESAA schools, and how do patterns differ from non-ESAA schools?

- For ESAA schools, approximately 2/3 of the total supplemental funds (ESAA and non-ESAA supplemental) are spent on instruction in basic skills (Reading and Mathematics).
- For each sample, the majority of ESAA funds are targeted on Reading instruction.
- In the Basic Elementary sample (but not in the Basic Secondary or the Pilot Elementary samples), ESAA schools spent significantly more supplemental funds for basic skills instruction than the non-ESAA schools ($398 vs. $240 per pupil).

How successfully are ESAA program resources and services targeted to schools and students with need for those services?

Results from all 3 years of the ESAA evaluation indicate than ESAA funds are being allocated to school districts whose students have acute academic needs. Recipient districts and schools translated their ESAA funds into services appropriate for their students, and focused these services most heavily on students with the greatest academic need.

What was the impact of ESAA participation on student achievement?

- There were no significant differences between the ESAA and non-ESAA students for the first two years of the evaluation, but there is evidence of program impact in Reading and Mathematics in Year Three for the Basic Elementary sample — although not for the Basic Secondary or Pilot Elementary samples. That is, the Basic Elementary sample (all students tested during the third year) showed statistically significant treatment-control differences, favoring the ESAA-funded schools, in student achievement gains. This finding is consistent with the fact that only in the Basic Elementary sample did ESAA schools have significantly higher total per-pupil expenditure levels than did their paired control schools. In the other two samples, school administrators apparently used other sources of funds to provide supplementary services similar to those of ESAA and this may have obscured effects of the ESAA program.

The finding of significant Basic Elementary program impact in Year Three, when no such significant impact was evident in Years One and Two, seems to have two explanations. First, there was apparently some increase in the treatment-control funding differential (favoring ESAA schools) between Years Two and Three. Second, the greater evidence of program impact in Year Three may reflect program maturation effects. That is, by Year Three, the local ESAA projects may have completed most of their start-up activities, such as long-range planning, staff recruitment, and materials development; this may have freed them to concentrate more effort on activities of more immediate and direct benefit to the students, such as actual classroom instruction, and preparation and implementation of daily lesson plans.

- There was no evidence that, nationally, the activities of the Basic and Pilot Project Grants programs have thus far been able to change students' perceptions of the way teachers and principals treat minority-group students, although progress in this area was found in some ESAA schools. It should be noted, however, that the students' perceptions of the treatment of minorities were generally positive in both ESAA and non-ESAA schools.

What kinds of programs were most effective in improving student achievement?

- Larger gains in student achievement were found in schools having higher total per-pupil expenditures — but no "critical funding mass" was found.

- Organizational Climate. The more successful schools had administrators who (a) felt strongly about instruction and communicated these views to teachers (through regular review and discussions with teachers), (b) assumed greater responsibility for selecting instructional materials and for planning and evaluating school programs, and (c) emphasized academic standards by reviewing teaching performance, by opposing postponement of basic skills instruction, and by requiring low-achieving students to repeat grades.

- Instructional Practices In Reading And Mathematics. Students were significantly more likely to gain in Mathematics when teachers (a) introduced a lesson by placing it in the context of previously-learned material, (b) praised students frequently and favored restricting rewards to desired behaviors, (c) used behavioral objectives and placed importance on setting challenging goals, and (d) emphasized behavioral objectives and individualized instruction. A similar trend was observed for achievement gains in Reading.

- Equality Of Educational Opportunity. In schools placing greater emphasis on equality of educational opportunity, students were significantly more likely to interact without regard to race or ethnicity, minority-group students were significantly more likely to perceive teachers as treating them favorably, and schools that placed greater emphasis on providing equality of educational opportunity were more successful in raising student achievement.

SUMMARY

A three-year evaluation of the ESAA Basic and Pilot Project Grants programs indicates that, by the end of the third year, the program appears to be having some impact on student achievement. This impact was limited to the Basic Elementary sample. Conclusions could not be drawn about ESAA impact in the Basic Secondary and Pilot Elementary samples because similarities in patterns of expenditures between treatment and control schools indicated that for these two samples ESAA and non-ESAA students were receiving the same kind of education. Regarding program attributes most effective, student achievement was higher in those programs where (a) there was strong administrative leadership behind the ESAA program, (b) instructional practices relied heavily on the use of behavioral objectives and individualized instruction, and (c) emphasis was placed on equality of educational opportunity. The program does not yet appear to be having any effect on student perception of school climate.

Appendix 5-A

FEDERAL ASSISTANCE TO DESEGREGATING SCHOOL DISTRICTS *

EMERGENCY SCHOOL AID ACT

Title VII, Public Law 92-318,
as Amended by the Education Amendments of 1974,
Public Law 93-380

A Report on Activities
September 1975 - May 1976

As Required Under Provisions of
Section 714, Title VII, Public Law 92-318

September 1976

U. S. Department of Health, Education, and Welfare
David Mathews, Secretary
Virginia Y. Trotter, Assistant Secretary for Education

Office of Education
William F. Pierce, Acting Commissioner

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*Due to space limitations, the report is reprinted here without accompanying appendices. The full report is retained in the Subcommittee files.

Emergency School Aid Act
Title VII, Public Law 92-318,
as amended by Public Law 93-380

Section 702. (b) The purpose of this title is to provide financial assistance --

(1) to meet the special needs incident to the elimination of minority group segregation and discrimination among students and faculty in elementary and secondary schools;

(2) to encourage the voluntary elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority group students;

(3) to aid school children in overcoming the educational disadvantages of minority group isolation.

DISCRIMINATION PROHIBITED--No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance, or be so treated on the basis of sex under most education programs or activities receiving Federal assistance.

PREFACE

This is the eighth semiannual report to the President and to the Congress on Federal Assistance to Desegregating School Districts as required under section 714 of the Emergency School Aid Act (ESAA), title VII of Public Law 92-318, as amended by the Education Amendments of 1974, Public Law 93-380.

ESAA is administered by the Commissioner of Education under authority delegated by the Assistant Secretary for Education in the Department of Health, Education, and Welfare. In the Office of Education ESAA program operations are conducted under the direction of the Associate Commissioner for Equal Educational Opportunity Programs (EEOP) in the Bureau of Elementary and Secondary Education (BESE). The announcement of a change in the Bureau's organizational title from the Bureau of School Systems (BSS) to the Bureau of Elementary and Secondary Education (BESE) was made in the Federal Register (Vol. 41, No. 148) of July 30, 1976. However, during the period covered by this report the Bureau's official designation continued to remain the Bureau of School Systems.

Two ESAA reports are issued to cover program activities for each fiscal year. The first report is issued following the conclusion of the developmental phase of the ESAA program and includes application forms, regulations, program guides, and guidelines used in the administration of the program. The second report is issued following the completion of the implementation phase and presents a funding summary by individual project of the ESAA awards for the fiscal year. The eight ESAA reports to date cover the following reporting periods:

I. August 1970 - September 1972...activities conducted under the Emergency School Assistance Program (ESAP)...issued September 23, 1972.

II. September 1972 - March 1973...developmental activities in preparation for implementation of ESAA I program in FY 1973...issued June 29, 1973.

III. April 1973 - September 1973...implementation of the ESAA I program in FY 1973 with complete funding analysis and examples of representative projects...issued September 28, 1973.

IV. September 1973 - March 1974...developmental activities in preparation for implementation of the ESAA II program in FY 1974 based on the FY 1973 funding experience...issued March 30, 1974.

V. April 1974 - September 1974...implementation of the ESAA II program in FY 1974 with funding analysis and examples of representative projects...issued September 30, 1974.

VI. September 1974 - May 1975...developmental activities in preparation for implementation of the ESAA III program in FY 1975 with an analysis of proposed changes based on the Education Amendments of 1974 (P.L. 93-380) and an evaluation of the FY 1973 representative projects...May 30, 1975.

VII. May 1975 - September 1975...implementation of the ESAA III program in FY 1975 and 3-year funding summary by individual project for fiscal years 1973, 1974, and 1975--including a progress report on the preliminary results of the national evaluation of specific programs and projects...issued April 1976.

VIII. September 1975 - May 1976...developmental activities conducted in preparation for implementation of ESAA IV program in FY 1976 with a summary of the administrative activities related to the ESAA application and funding process...issued September 1976.

FEDERAL ASSISTANCE TO DESEGREGATING SCHOOL DISTRICTS

This is the eighth semiannual report to the President and the Congress on the Emergency School Aid Act. It covers the major activities conducted by the OE Equal Educational Opportunity Programs office in the former Bureau of School Systems (now the Bureau of Elementary and Secondary Education) in preparation for the administration and implementation in FY 1976 of the ESAA program in its fourth funding year (ESAA IV). In accordance with the requirements of section 714 of title VII of P.L. 92-318 the report includes "application forms, regulations, program guides, and guidelines used in the administration of the program." Examples of ESAA developmental and operational material included in this report appear in the appendixes and are grouped in the following categories:

Section I.	ESAA Regulations: Federal Register
Section II.	ESAA Supplementary Program Activities Manual and OE Directive 2-26
Section III.	ESAA Administrative Forms
Section IV.	LEA and NPO Application Forms
Section V.	LEA and NPO Evaluation Criteria
Section VI.	Instructions for Application Technical Review Panel Members - Other Administrative Forms
Section VII.	OE/BSS Memorandum and EEOP Administrative Bulletins
Section VIII.	Supplementary Program Activities Manual for Special Arts, Mathematics, and Student Concerns Projects - Other Administrative Forms
Section IX.	Administrative Manual for Educational Television Projects - Scope of Guidelines - ETV Application Form - Other Administrative Forms

In Sections I and VII copies of the Federal Register and the EEOP Administrative Bulletins are presented in sequential order within each section according to their dates of issuance. Some of the material in the appendixes contains references to Title IV of the Civil Rights Act of 1964 (CRA) which is also administered by EEOP.

This report deals with the developmental phase of the ESAA program in FY 1976. It presents the program materials prepared during the year and summarizes the activities and events which preceded the actual funding process. Definitions of the various ESAA program categories and a detailed description of the actual funding process can be found in the seventh semiannual ESAA report issued April 1976.

FY '76 ESAA IV APPROPRIATION

The development of plans for the implementation of the ESAA program for fiscal 1976 began early in the funding year soon after the final ESAA obligations for FY 1975 had been awarded.

On June 12, 1975 the final ESAA regulations based on provisions of the Education Amendments of 1974 (P.L. 93-380) were published in the Federal Register (Vol. 40, No. 114). The final regulations are included in Section I of the appendixes (ESAA Regulations: Federal Register) along with a copy of the original regulations implementing ESAA which were published on February 6, 1973 in the Federal Register (Vol. 38, No. 24).

Also on June 12, 1975 under the Supplemental Appropriations Act the funding authority for emergency school assistance for fiscal 1975 was extended through September 30, 1975. The $215 million ESAA obligation for FY 1975 was used to fund 829 projects in 47 States and 5 jurisdictions other than States.

The fiscal 1976 appropriation for the Education Division (P.L. 94-94) enacted on September 10, 1975 provided the obligational authority for the expenditure of $215 million for emergency school assistance for the fiscal year ending June 30, 1976 and for the period from July 1, 1976 through September 30, 1976. Section 641(a) of P.L. 93-380 had extended the authorization of appropriations for ESAA through the period ending June 30, 1976. The $215 million ESAA appropriation for FY 1976 was allocated among the various program categories according to specific activity authorizations in the ESAA legislation:

Program Category	Percentage	Appropriation
Basic Grants	64	$137,600,000
Pilot Projects	15	32,250,000
Nonprofit Organization Grants	8	17,200,000
Bilingual Grants	4	8,600,000
Educational Television Projects	3	6,450,000
Special Projects	5	10,750,000
Evaluation	1	2,150,000
	100	$215,000,000

FY '76 EMERGENCY SPECIAL PROJECTS (ESP)

Plans were developed early in the 1976 fiscal year to provide emergency financial assistance to those school districts which received court-ordered desegregation plans or adopted voluntary plans too late in the school year to obtain ESAA funds during the regular FY 1975 funding process. Consequently, on October 14, 1975 funding standards for Emergency Special Projects and notice of a November 14 closing date for receipt of applications were published in the Federal Register (Vol. 40, No. 199) (Appendixes - Section I - ESAA Regulations: Federal Register).

Fiscal 1976 funds not to exceed $3,250,000 of the total amount appropriated under P.L. 94-94 were made available for Emergency Special Project awards covering the period December 1, 1975 - June 30, 1976 to assist eligible school districts with new court-ordered or voluntary desegregation plans in meeting severe and urgent desegregation needs. Applications for assistance were subject to the general Basic Grant award process including the utilization of criteria rating scores, rank ordering of applications, and the application revision and resubmission funding procedure. The result was the funding early in the 1976 fiscal year of the following 7 ESP awards:

Anniston Public Schools (Alabama)........................$	50,851
Corpus Christi ISD (Texas)...............................	87,405
Dayton City Schools (Ohio)...............................	75,330
Detroit Board of Education (Michigan)....................	954,066
Gadsden City Board of Education (Alabama)................	116,241
Jefferson County Public Schools-Louisville (Kentucky)....	1,482,348
Omaha School District #1 (Nebraska)......................	22,336
Total	$2,788,577

As an example the $954,066 ESP grant award to the Detroit Board of Education provided for supplementary teacher and student training programs in individualized instruction, prescriptive teaching techniques, reading, and mathematics. These programs were urgently needed to address the problem of the increasing disparity in student academic achievement levels occasioned by student reassignment patterns ordered by the Federal district court on November 4, 1975. ESP funds were authorized for the Detroit project because the court order was issued subsequent to the final June 2, 1975 deadline date for submission of FY 1975 grant applications. This was too late for FY 1975 funding and the need was too immediate to wait for the completion of the FY 1976 funding process.

A long range objective of the ESAA planning process has been to develop a more flexible and responsive program for meeting the special emergency needs of school districts which are implementing desegregation plans. ESAA's present emergency funding process has provided limited assistance to school districts which have received court-ordered desegregation plans or have adopted voluntary plans too late in the school year to apply for State apportionment funds during the regular ESAA funding cycle. Many of these school districts have demonstrated a greater need for assistance than has been made available under their respective State apportionment funding levels. The budget requests from large cities experiencing new or more comprehensive desegregation activity have often exceeded the entire ESAA apportionment for the State.

Current trends indicate that urgent desegregation needs requiring more flexible utilization of ESAA discretionary funds will continue to increase. The HEW Office for Civil Rights (OCR) estimates that some 20 school districts might soon be required to institute new comprehensive desegregation plans. Future program planning efforts in the Office of Education will be directed toward developing more realistic and responsive programs to target the necessary Federal resources to those areas which require concentrated desegregation assistance and at the same time to make funds available to those local education agencies and public or private nonprofit organizations which have demonstrated a continuing need for ESAA support.

FY '76 ESAA IMPLEMENTATION PLAN

As ESAA moved into its fourth funding year the highest levels of need related to desegregation were identified in the following areas:

- school districts which were implementing new desegregation plans
- school districts which had physically desegregated but were experiencing continuing problems in maintaining desegregated schools
- school districts which were attempting through curriculum revision to respond to the needs of cultural diversity.

Accordingly, ESAA program planning for FY 1976 was concentrated on targeting assistance to school districts during the initial stages of desegregation plan implementation as well as on providing support for activities directed toward the reduction of racial tensions and the creation of an educational climate to meet the special needs of students from diverse cultural backgrounds.

The administration of the overall ESAA program each year entails the preparation of rules and regulations, program manuals, and application forms each designed to reflect the specific statutory requirements and objectives of the various program categories. In addition, management directives are issued throughout the funding year defining or clarifying policies and procedures and outlining headquarters and regional staff responsibilities. The following EEOP Fiscal Year 1976 Implementation Schedule which has been updated for this report shows the approximate sequential progression of highlight events in the ESAA funding process:

EQUAL EDUCATIONAL OPPORTUNITY PROGRAMS

Fiscal Year 1976 Implementation Schedule

January 1976 - Revised February 1976
(Includes ESAA-related activities only)

ACTIVITY	COMPLETION DATE
Publish notice in Federal Register of a 2/13 closing date for receipt of all ESAA applications except ETV (Basic, Pilot, NPO, Bilingual, and Special Projects)	12/30/75
Print ETV program announcements	1/19/76
Print program administrative material and forms for distribution to headquarters and regional staff	2/9/76
Distribute ETV program announcements to potential applicants	2/9/76
Publish in Federal Register guidelines and notice of a 4/19 closing date for receipt of ETV applications	2/11/76
Publish notice in Federal Register of extension to 3/5 of closing date for receipt of all ESAA applications except ETV	2/26/76
Receive all ESAA applications except ETV	3/5/76
Publish notice in Federal Register of a 5/7 closing date for receipt of resubmitted applications for ESAA State apportionment and Bilingual programs	4/9/76
Receive at OE/Washington Regional Commissioners' funding recommendations for ESAA State apportionment and Bilingual programs	4/9/76
Make initial cycle funding decisions on ESAA State apportionment and Bilingual applications (Associate Commissioner and EEOP staff)	4/16/76
Notify all Fiscal-Hold, ineligible, and low quality applicants in ESAA State apportionment categories of opportunity to resubmit	4/16/76
Receive ETV applications	4/19/76

ACTIVITY	COMPLETION DATE
. Prepare initial funding cycle decision memorandums for ESAA State apportionment applications	4/19/76
. Complete and submit final funding decision memorandums for FY '76 Special Project awards to Bureau of School Systems (BSS) for approval	4/19/76
. Notify all Fiscal-Hold, ineligible, and low quality applicants in ESAA Bilingual category of opportunity to resubmit	4/20/76
. Submit FY '76 decision memorandums for ESAA State apportionment applications to BSS for approval	5/5/76
. Prepare initial funding cycle decision memorandum for ESAA/Bilingual applications	5/5/76
. Submit FY '76 decision memorandum for ESAA/ Bilingual applications to BSS for approval	5/5/76
. Receive resubmitted applications for State apportionment and Bilingual programs	5/7/76
. Publish notice in Federal Register of a 6/30 closing date for receipt of additional FY '76 Emergency Special Project applications	5/13/76
. Receive at OE/Washington regional funding recommendations for ESAA State apportionment and Bilingual resubmitted applications	5/24/76
. Complete final funding decision memorandums for FY '76 ESAA resubmitted State apportionment applications	5/28/76
. Complete final funding decision memorandum on ESAA FY '76 Bilingual resubmitted applications	5/28/76
. Complete and submit final funding decision memorandum for FY '76 ETV awards to BSS for approval	5/28/76
. Submit FY '76 final funding decision memorandums on ESAA State apportionment and Bilingual resubmitted applications to BSS for approval	6/10/76

ACTIVITY	COMPLETION DATE
. Complete budget projections for reapportionment of ESAA funds to State apportionment applicants	6/18/76
. Submit final funding decision memorandums for ESAA State apportionment awards from reapportioned funds to BSS for approval	6/30/76
. Notify all unsuccessful ESAA applicants of funding status	6/30/76
. Obligate all ESAA funds for regular FY '76 funding cycle	6/30/76
. Compile, organize, review, and analyze ESAA FY '76 funding data	7/16/76
. Make recommendations to the Associate Commissioner concerning procedures for ESAA funding process in FY '77	8/11/76

FY '76 ESAA REGULATIONS: FEDERAL REGISTER

On December 30, 1975 the EEOP FY 1976 Implementation Schedule for the regular ESAA funding process was initiated with publication in the *Federal Register* (Vol. 40 - No. 250) (Appendixes - Section I - ESAA Regulations: *Federal Register*) of a closing date of February 13, 1976 for the receipt of applications from local education agencies and from public or private nonprofit organizations for assistance in the following categories: Basic Grants, Pilot Projects, Nonprofit Organization Grants, Bilingual Grants, Special Arts Projects, Special Mathematics Projects, Special Student Concerns Projects, and Other Special Projects including Emergency Special Projects and awards to U.S. jurisdictions other than States.

An announcement establishing guidelines for Educational Television Projects in FY 1976 and a notice of an April 19 closing date for receipt of ETV applications were published in the *Federal Register* (Vol. 41, No. 29) on February 11, 1976 (Appendixes - Section I). The ETV guidelines are also included in Section IX of the appendixes in the *Administrative Manual for Educational Television Projects*.

On February 26, 1976 the *Federal Register* (Vol. 41, No. 39) announced that the previously published February 13 closing date for receipt of all ESAA applications except ETV had been extended to March 5 (Appendixes - Section I). Through this extension ESAA applicants in these categories were provided with an additional 3 weeks in which to submit their applications or to revise and refile applications which had already been submitted.

A week prior to the official announcement of the extension in the *Federal Register* the Regional Commissioners were informed of the Commissioner's decision to extend the deadline in a February 19 memorandum from the Deputy Commissioner for School Systems. The memorandum is the first item shown in

Section VII of the appendixes. It presented a revised program implementation schedule based on the extended March 5 application deadline date and specified the appropriate notification procedures to assure that all ESAA applicants would receive equitable treatment during the application process.

On April 9, 1976 a closing date of May 7 was announced in the *Federal Register* (Vol. 41, No. 70) for the receipt of resubmitted applications for the State apportionment and Bilingual programs (Appendixes - Section I).

The ESAA funding process for the State apportionment and Bilingual programs includes an initial funding phase and a second or resubmission funding phase during which the State apportionment applications are rank ordered within States and the Bilingual applications rank ordered nationally. Applications with the highest scores receive first consideration for available funds. In the final or reapportionment funding phase the State apportionment funds which have not been utilized in any State are reapportioned to other States with remaining funding needs.

The ESAA legislation requires that before an LEA application can be disapproved the applicant must be advised of the specific reasons for the disapproval and provided with an opportunity to revise and resubmit the application for competition in the second or resubmission funding phase. Disapproved applications with low rating scores and approved applications in *Fiscal Hold*--those applications which were not funded due to the limitation of funds in the initial funding phase--may be resubmitted in the second funding phase in the hope of achieving higher scores and more favorable rank order positions in the competition for the remaining ESAA funds. Nonprofit organizations are provided with the same opportunity.

The *Federal Register* (Vol. 41, No. 94) of May 13, 1976 (Appendixes - Section I) announced a June 30 closing date for receipt of applications for Special Projects including those from LEAs which adopted desegregation plans for the 1976-77 school year subsequent to January 14, 1976 which was too late for the LEAs to make application during the regular ESAA funding process. Funding criteria for the Emergency Special Project awards include the particular needs occasioned by the initial implementation of the desegregation plans. The awards will cover the period from July 1, 1976 through June 30, 1977.

FY '76 ESAA APPLICATION AND FUNDING PROCESS

The FY 1976 ESAA award procedures developed by EEOP headquarters in consultation with the Regional Offices are contained in the *Emergency School Aid Supplementary Program Activities Manual*. The manual contains all of the operational procedures related to the ESAA application and funding process which are not covered in Section 4 (Discretionary Grant Program Review and Administrative Procedures) of the Office of Education Management Manual - General Administration: OE Directive 2-26. Both documents are included in this report in Section II of the appendixes.

The *ESAA Supplementary Program Activities Manual* pertains only to the State apportionment (Basic/Pilot/NPO) and Bilingual programs which are administered by the Regional Offices. It covers the full range of the procedures utilized in the administration of the State apportionment and Bilingual programs from preapplication activities through the final funding process. Key ESAA administrative forms are shown in Section III of the appendixes and appear successively as they are described in the following summary of the application and funding process.

The Regional Offices are responsible for disseminating appropriate program information and for providing individualized technical assistance to all potential applicants in the development of their proposals. Early in the FY 1976 funding year general meetings and conferences were held for potential LEA and NPO applicants in each region to provide specific information on ESAA procedures, regulations, application forms, eligibility requirements, and other relevant programmatic issues. Representatives from the State education agencies, nonpublic school organizations, and Title IV General Assistance Centers were invited to participate in the meetings. Following these general information meetings ESAA Regional Program Managers provided individualized technical assistance services in the preparation of ESAA applications in such areas as:

- Instructions in the proper method of completing ESAA application forms
- Assistance in the formulation of comprehensive human relations and basic instructional programs
- Advice on the development of broad-based community support
- Identification of successful programs and practices designed to facilitate the elimination, reduction, or prevention of minority isolation
- Development of authorized activities to help overcome the disadvantages of minority isolation and at the same time improve the quality of education for all children
- Suggestions upon request for appropriate curricular or organizational innovations
- Assistance in the identification and resolution of problems incident to desegregation and minority isolation
- Recommendations on resource personnel capable of providing special expertise in specific program areas
- Consultation on the educational implications of desegregation and minority isolation.

The application forms for local education agencies (O.M.B. No. 51-R1175) and nonprofit organizations (O.M.B. No. 51-R1176) which were developed for the FY 1976 project year are shown in Section IV of the appendixes.

In FY 1976 as in previous funding years ESAA applications were reviewed and rated according to specific criteria contained in section 710 (c) of the ESAA legislation including:

- the need for assistance
- the extent and comprehensive scope of the effort to eliminate, reduce, or prevent minority isolation in the school district

the educational quality of the proposed activities and their potential for achieving the purposes of the act.

Throughout the application review process at the Regional Offices ESAA applications received extensive screening and examination by Regional Program Managers and OE Contracting Officers, Office for Civil Rights (OCR) Regional Specialists, and non-Federal Application Technical Review Panels with special expertise in school desegregation and relevant educational programs. The appropriate State education agencies (SEAs) were also provided with an opportunity to submit comments and recommendations concerning ESAA applications (See Appendixes - Section III - Transmittal Form for State Educational Agency Comment - OE Form 235-1). However, the final funding decisions were made at OE headquarters in Washington by the Deputy Commissioner for School Systems based on initial funding recommendations submitted by the Regional Offices.

The full scope and extent of the regional review can be ascertained through an examination of the NPO/Special Projects (OE Form 136-6) and LEA (OE Form 136-7) Application Check Sheets shown in Section III of the appendixes which were utilized by Regional Program Officers to verify information in the applications. Highlights of the application review process included:

*OCR Verification of Applicant's Plan Status

It was OCR's responsibility to verify that the school district's desegregation or minority isolation plan met the requirements specified in section 706 of the ESAA legislation concerning the applicant's eligibility to receive assistance. A copy of the OCR verification form (OE Form 138) is shown in Section III of the appendixes. School districts declared ineligible by OCR were immediately notified of their status in writing by the Deputy Commissioner for School Systems. These districts were provided with an opportunity to request informal show-cause meetings with the Associate Commissioner for EEOP and/or to submit waivers of ineligibility to the Secretary of HEW containing the remedial action the district would take to become eligible to receive ESAA assistance during the funding year.

*Statistical Data Review

As in previous funding years ESAA applications for FY 1976 were rated on the basis of a composite funding score derived from two sets of selection criteria: a statistical or objective criteria score and an educational quality or programmatic criteria score. The statistical and the programmatic criteria used to evaluate LEA applications for Basic/Pilot/Bilingual programs and the criteria for rating NPO applications are presented in the appendixes (Section V - LEA and NPO Evaluation Criteria).

In the statistical data review process the statistical eligibility of each application was determined by computing the minority enrollment in the school district and the projected effective net reduction or prevention of minority isolation according to rating scales developed to meet the specific requirements of the various program categories. The Worksheet for Computing Statistical Data Rating Scores (OE Form 246-2) used by the Regional Program Managers during the review process is shown in Section III of the appendixes. The worksheet also appears in Section VII of the appendixes as an attachment to Administrative Bulletin No. 16-76 (March 10, 1976).

*Application Technical Review

The programmatic or educational quality of each application was reviewed in the Regional Offices by application technical review panels according to the LEA and NPO evaluation criteria shown in Section V of the appendixes.

Each application technical review panel was composed of four members with special expertise in school desegregation and relevant educational programs:

- a classroom teacher
- a building principal or superintendent/assistant superintendent of schools
- a community representative not associated with the school system
- a representative at one of the following educational levels: curriculum consultant, director of instruction, college or university professor, SEA staff member, or a student.

The panel members were carefully chosen according to established procedures in order to preclude bias or prejudice either in the selection or in the review process and to provide appropriate representation on the basis of race, sex, and ethnic origin.

Special training teams from EEOP headquarters conducted intensive instructional sessions for Regional Program Managers and their staff in the appropriate methods and techniques for training the members of the Application Technical Review Panels. These training activities were focused on the purposes and objectives of the ESAA legislation and its implementing regulations, the format and content of the ESAA applications, and the evaluation criteria and rating scales for the various program categories.

Panel members were also provided with additional background material and guidelines for evaluating ESAA applications. Section VI of the appendixes contains a copy of Instructions for Application Technical Review Panel Members which analyzes the significant role and responsibility of the panel member in relation to the evaluative factors involved in the total application review process.

The panel member evaluated the programmatic or educational quality of the applications in regard to: Needs Assessment - Statement of Objectives - Activities - Resource Management - Evaluation - Replicability (Pilot Projects only). An Educational Quality Rating Panel Review Summary (OE Form 241-4) is shown in Section VI of the appendixes. Also included in Section VI is an Application Technical Review Form (OE Form 473-1) for rating Basic Grant applications which defines the educational/programmatic criteria and their relative weight factors. A model Application Technical Review Form for OE discretionary grant programs appears as Exhibit A of OE Directive 2-26 in Section II of the appendixes.

*Pre-Grant Site Review

At various times during the application review process pre-grant site review teams from the Regional Offices conducted on-site reviews of those applicants which had not received prior ESAA funding or which had not performed satisfactorily under previous ESAA grant awards. The site visits were made at an early stage in the review process if an applicant with a substantial funding request received a rating score within fundable range. Other pre-grant site reviews were scheduled in order to obtain additional information concerning the application. The Pre-Grant Site Review Report (OE Form 242-2) is shown in Section III of the appendixes.

*Budget Review Procedures

A preliminary review of proposed budget costs was conducted early in the application funding schedule. Following the technical review process the budget review procedure was completed with the preparation of a Schedule of Negotiable Items (OE Form 474: Appendixes - Section III) for each application in accordance with instructions outlined in OE Directive 2-26 (Appendixes - Section II - Exhibit D). The proposed budgets were carefully screened for unallowable costs and unauthorized activities. In addition, funding requests not related to the purposes of the ESAA legislation were identified and the applicants provided with an opportunity to participate in the resubmission process. Also included in Section III of the appendixes is the Application Budget Breakdown by Special Categories (OE Form 240-1) which shows the administrative form for summarizing the applicant's budget allocations for certain specific authorized activities.

*OCR Compliance Status Review

OCR regional staff were responsible for reviewing LEA applications to determine their compliance status in relation to the assurances of nondiscrimination contained in Subpart E -- General Requirements -- of the ESAA regulations: 45 CFR §185.41 (a), (b), (c), (d), (e), and (h)(1)(3); §185.42 (a); §185.43 (a), (b), (c), (d); §185.44. These regulations are contained in the Federal Register of February 6, 1973 (Vol. 38, No. 24) and the Federal Register of June 12, 1975 (Vol. 40, No. 114) shown in Section I of the appendixes. Applications for ESAA assistance cannot be recommended for funding without an affirmative OCR Compliance Status Report (OE Form 273-1: Appendixes - Section III).

*Regional Review and Funding Procedures

The HEW Regional Director (RD) reviewed all applications and proposed funding recommendations originating in the Regional Offices. The Transmittal of Applications for HEW Regional Director's Review (OE Form 247-1) is shown in Section III of the appendixes.

The Regional Program Managers were responsible for making funding recommendations to the Regional Commissioner of Education (RC) following a thorough analysis of the following review materials: RD and SEA Comments, Statistical Data Rating and Application Technical Review Scores, Schedule of Negotiable Items, OCR Compliance Status Review, and Pre-Grant Site Review Reports.

The Regional Program Managers also prepared a separate ESAA Application Rating/Staff Technical Review Summary and Recommendation to OE Washington (OE Form 139: Appendixes - Section III) for each of the Basic, Pilot, NPO, and Bilingual program categories with the applications in each category listed on each OE 139 form by individual State within the region. Each application appeared on the OE-139 form in rank order based on its composite statistical and educational quality rating score. Recommended funding levels or appropriate actions related to resubmission, Fiscal Hold, OCR ineligibility, or final rejection of the application were included on the OE-139 form.

The next procedure entailed the preparation of the Application Transmittal(s) (OE Form 318) and the ESAA Application Abstract(s) (OE Form 243-4) (Appendixes - Section III) which summarized the applications and analyzed the recommended funding levels. These forms along with the OE-139 forms and the other relevant review material were transmitted through the Regional Director for School Systems to the Regional Commissioner for review and concurrence. The RC then transmitted all of the review material relating to the Basic, Pilot, and NPO State apportionment applications and to the national Bilingual applications to the Deputy Commissioner for School Systems/ OE Washington for the final funding decisions.

*Final Funding Procedures

During the final funding process the Deputy Commissioner for School Systems made the final funding decisions for the Basic, Pilot, and NPO State apportionment programs and the national Bilingual program based on the application review material and funding recommendations provided by the Regional Offices. The Final Funding Decision Memorandums were returned to the Regional Offices for the completion of the grant award announcement and Congressional Notification procedures. OE headquarters then completed the final or reapportionment funding phase for the State apportionment programs during which all unobligated funds from the original State apportionments were reapportioned among those States with remaining funding needs and fundable projects.

Following the reallocation process final rejection notification letters for unsuccessful applicants were prepared by the Regional Offices for the Deputy Commissioner's signature. Suggested formats for final notification letters to rejected applicants in Fiscal Hold or with low quality scores are included in the ESAA Supplementary Program Activities Manual in Section II of the appendixes. Revised formats for the final rejection notification letters appear in Section VII of the appendixes in Administrative Bulletin No. 18-76 of April 30, 1976.

Also included in the ESAA manual in Section II of the appendixes are suggested formats for notification letters sent to applicants in Fiscal Hold and to applicants submitting low quality proposals during the resubmission process as well as to applicants submitting incomplete proposals. All initial and final notification letters related to the ineligibility of applicants to receive ESAA assistance were prepared for the Deputy Commissioner's signature by the Office for Civil Rights.

FY '76 EEOP ADMINISTRATIVE BULLETINS

Throughout the funding year EEOP continued to issue program guidelines and policy directives to the Regional Offices which either supplemented or supplanted specific procedures contained in the ESAA manual. A survey of the subject content of the EEOP Administrative Bulletins shown below provides an overview of the varied programmatic and operational functions related to the implementation of the ESAA program in FY 1976. The full text of the Administrative Bulletins is presented in Section VII of the appendixes (OE/BSS Memorandum and EEOP Administrative Bulletins).

- AB #2-76 (1/29): Clarification of part V (Assurances) of the NPO application form which contains compliance assurances required by ESAA regulations and by other Federal regulations and guidelines related to the utilization of Federal funds.

- AB #4-76 (2/10): Procedural change related to the establishment by the Regional Offices of technical review panels for FY '76 Bilingual applications.

- AB #7-76 (2/10): Policy guidelines to assist ESAA Regional Program Managers in reviewing provisions governing the participation of nonpublic school students and staff in the activities included in LEA applications.

- AB #10-76 (3/10): Instructions for computing the technical review panel scores to determine the educational quality rating of ESAA applications.

- AB #11-76 (3/8): Guidelines for establishing equitable rating procedures for evaluating information on parent and community involvement which is required in the ESAA application technical review forms but was not requested in the LEA and NPO application forms for FY 1976.

- AB #12-76 (3/8): Procedural ruling that those ESAA applicants submitting a second application following the extension of the application deadline date from February 13 to March 5 were considered to have withdrawn their initial applications and could be rated only on their second and most recent application.

- AB #13-76 (3/8): List of materials for ESAA Regional Program Managers to bring to the Washington review of the Regional Commissioners' funding recommendations for State apportionment and Bilingual applications.

- AB #16-76 (3/10): Review of the statistical rating procedure for a single NPO application proposing to provide services to more than one LEA which requires counting the total enrollment and the total number of minority children from each participating LEA throughout the rating process.

- AB #18-76 (4/30): Submission to Regional Offices of revised formats for preparing final rejection notification letters for ESAA applicants with low quality scores or with applications in *Fiscal Hold* which could not receive assistance due to limited funds.

FY '76 ESAA NATIONAL PROGRAM CATEGORIES: SPECIAL PROJECTS AND EDUCATIONAL TELEVISION PROJECTS

The ESAA awards for Special Projects and Educational Television (ETV) Projects were administered on a national basis by the EEOP Special Projects Branch (SPB) at OE headquarters in Washington.

Special Projects

Special Projects are awarded in the following program areas from funds specifically set aside for special programs and projects which the Assistant Secretary believes will contribute significantly to the achievement of ESAA objectives: Special Arts Projects, Special Mathematics Projects, Special Student Concerns Projects, and Other Special Projects which include Emergency Special Projects (ESP) and awards to U.S. jurisdictions other than States.

Although Special Projects are administered at the national level, the application and funding procedures are similar to those developed for the State apportionment and Bilingual programs administered at the regional level. Local education agencies and other public organizations requesting assistance for Special Arts Projects, Special Student Concerns Projects, and Other Special Projects utilized the LEA application form while nonprofit private organizations requesting funds for Special Mathematics Projects used the NPO application form (Appendixes - Section IV).

The management procedures contained in the *ESAA Supplementary Program Activities Manual* (Appendixes - Section II) served as a general guide for processing applications for Other Special Projects. An *Emergency School Aid Supplementary Program Activities Manual for Special Arts, Mathematics, and Student Concerns Projects* was also developed for the FY 1976 project year and is shown in Section VIII of the appendixes. The application and funding procedures presented in the Special Arts/Mathematics/Student Concerns manual parallel those described in the general ESAA manual but also reflect the administrative and programmatic variations of these specialized categories.

Preapplication background information and program material for these categories were distributed by the EEOP Special Projects Branch (SPB) to all State Arts Councils or State Arts and Humanities Commissions, all State Human Relations Commissions, all State education agencies (SEAs), New Regional Directors, Regional Commissioners, and ESAA Program Managers. Technical assistance in the preparation of ESAA applications was also made available by the Special Projects Branch. Nonapplicant SEAs were also provided with an opportunity to submit comments and recommendations concerning appropriate Special Project applications from their respective States.

The SPB Program Officers performed administrative duties similar to their Program Manager counterparts in the Regional Offices. They were responsible for coordinating the verification procedures related to the eligibility of the LEAs which the applicants proposed to serve. These LEAs were listed on OE Form 138-2-1 (OCR Verification of Eligibility of LEAs to be Served: Appendixes - Section VIII) and processed through OCR/Washington to the OCR regional staff who determined their eligibility according to 45 CFR §185.11 or §185.31(a) and §185.43 or §185.44 of the ESAA regulations.

The OCR Report on Applicant's Compliance Status (OE Form 273-1: Appendixes - Section III) verifying LEA compliance with assurances relating to discrimination according to §706 of P.L. 93-380 and §185.11 or §185.31 (a) of the ESAA regulations was also processed through the same OCR review channels. If an LEA which the applicant proposed to serve was declared ineligible by OCR, the applicant was provided with the opportunity to amend its proposal either by omitting that LEA or by substituting an eligible LEA in its place. The SPB Program Officer also reviewed the applications for their conformity with ESAA assurances relating to advisory committees, public hearings, and SEA recommendations.

During the statistical data review of Special Arts Projects the SPB Program Officer assigned predetermined statistical scores to the applications based on the need for assistance as measured by the number and percentage of minority children within their respective States. These statistical or objective criteria rating scales appear in appendix A of the Special Arts/Mathematics/Student Concerns manual.

The Special Arts/Mathematics/Student Concerns proposals were reviewed and rated during the application technical review process in accordance with Part IV-D of OE Directive 2-26 (Appendixes - Section II) and the evaluation criteria contained in §185.91-2, §185.92-3, and §185.93-3 respectively of the ESAA regulations. The Application Technical Review Form (OE Form 473-5) for Special Arts is included as an example in Section VIII of the appendixes.

The application technical review panels for Special Arts and Student Concerns contained five panel members and Special Mathematics consisted of a three-member panel. The panelists were selected by the Associate Commissioner for EEOP with the approval of the Deputy Commissioner for School Systems. The panels were composed of nationally recognized and specialized professional educators and civic leaders and included black, Spanish-surnamed, and women panelists. The Student Concerns panel also included a student presently attending a recently desegregated school.

Following the compilation of the composite statistical data rating and educational quality scores (OE Form 241-4: Educational Quality Rating Panel Review Summary: Appendixes - Section VI) by the SPB Program Officer, the Chief of the Special Projects Branch prepared the OE Form 139 for each program category with the applications listed in rank order (ESAA Application Rating/Staff Technical Review Summary and Recommendation to OE Washington: Appendixes - Section III). The OE 139 forms with their initial funding recommendations were processed through the Associate Commissioner for EEOP to the Deputy Commissioner for School Systems for the final funding decisions. Upon the completion of the review process the HEW Regional Directors were informed of the proposed funding actions.

During the final funding process a Grants Officer in the OE Grant and Procurement Management Division with the assistance of an SPB Program Officer negotiated the grant awards based on the Schedule of Negotiable Items for Special Arts/Mathematics/Student Concerns Projects (OE Form 474-1: Appendixes - Section VIII). The final notification procedures including Congressional

Notifications were completed by the appropriate offices at OE headquarters. The suggested format for the final rejection notification letters from the Deputy Commissioner for School Systems to unsuccessful applicants for ESAA Special Project awards is included in the Special Arts/Mathematics/Student Concerns manual in Section VIII of the appendixes.

Educational Television (ETV) Projects

Section 711 of the ESAA legislation provides for the development and production of integrated children's television programs of sound educational value. Assistance contracts are awarded to public and nonprofit private organizations in various program categories for National and Regional television series produced for children at the elementary and secondary age levels:

NATIONAL SERIES

- to improve the written and oral expression of secondary students with language deficiencies
- to foster interracial and interethnic understanding among elementary school children
- to improve the cognitive skills of elementary school children in such areas as mathematics, science, social studies, and language including the language skills of students whose dominant language is not English.

REGIONAL SERIES

- to meet special minority needs which are unique to particular geographic regions including specific native tribes.

The ETV program is directed at the national level by the EEOP Special Projects Branch utilizing administrative procedures similar to those for Special Projects but reflective of the unique ETV program characteristics. The Administrative Manual for Educational Television Projects is shown in Section IX of the appendixes.

Program announcements, application forms, guidelines, and regulations (45 CFR §185.71 - §185.84) relating to the ETV contract awards for FY 1976 were provided by SPB to potential applicants including public educational television stations, State education agencies, institutions of higher education, college and university radio/TV academic department heads, and minority-based nonprofit media production organizations. A copy of the ETV application form (OE Form 328) is shown in Section IX of the appendixes along with the Scope of Guidelines (see ETV administrative manual) which was originally published in the Federal Register (Vol. 41, No. 29) of February 11, 1976 (Appendixes - Section I).

An SPB Program Officer was responsible for verifying the validity of the proposals and for determining the capability of the applicants to provide the creative skills and production facilities required for the development of expert television programming. In addition, ETV criteria required that personnel who determined the needs and objectives for the proposed projects and staff members who would be involved in their eventual implementation should be representative of the target group population to be served by the project. Specific assurances related to production facilities and broadcast standards were also required.

The LEA and nonprofit organization applicants were often expected to meet different requirements including the composition of their advisory committees. All ETV advisory committees must be composed of an equal number of minority and nonminority members with the minority members equally representative of the project's target population. At least half of the adult members of all advisory committees must be parents of children in the same age group as the target audience. Advisory committee members selected from civic organizations should also reflect the racial, ethnic, and geographic characteristics of the region to be served. Students must comprise half of the membership of the advisory committees proposed for non-LEA projects in which the target audience includes secondary school students. At least one nonminority student and one student representing each minority group in the target population which an LEA application proposes to serve must be included on the advisory committee regardless of the age group of the target audience. In addition, an LEA was required to publish a public notice and hold a public hearing regarding its application.

The review process for ETV applications conducted by the Special Projects Branch included Administrative Review, Application Technical Review, Office for Civil Rights (OCR) Review, HEW Regional Director's Review, and Budget Review.

Each ETV application was reviewed and rated in accordance with 45 CFR §185.74 of the ESAA regulations by an application technical review panel composed of 10 members: 4 HEW representatives selected by the Associate Commissioner for EEOP and 6 non-Federal panel members selected by the Associate Commissioner with the approval of the Deputy Commissioner for School Systems. The ETV panel members selected were experienced in public television and minority education as well as representative of the minority groups constituting the target population of the proposed project. Separate panels were convened to evaluate the applications for the National and Regional ETV series.

The Application Technical Review Form (OE Form 265-2: Appendixes - Section IX) shows the educational quality and programmatic criteria utilized in the review of ETV applications: Needs Assessment - Articulation of Objectives with Needs - Realism of Objectives - Personnel Involved in Objectives and Needs Determination - Program Content and Design - Overall Staffing Plan - Minority Personnel Involvement - On-the-Job Training - Supplementary Material - Project Advisory Committee - Management and Scheduling - Evaluation.

Following the panel evaluations the total mean averages of the rating scores for each application were tabulated and the applications rank ordered nationally in each program area. The initial funding recommendations made by the Chief of the Special Projects Branch were then processed through the Associate Commissioner (EEOP) for the final funding decisions of the Deputy Commissioner (BSS).

A Contracting Officer from the OE Grant and Procurement Management Division with the assistance of an SPB Program Officer negotiated the ETV contract awards based on the budget level recommendations in the Schedule of Negotiable Items for Educational Television Projects (OE Form 474-1: Appendixes - Section IX). The Contracting Officer was responsible for implementing all contract award notification procedures and the Deputy Commissioner (BSS) for processing the rejection notification letters to unsuccessful ETV applicants.

During the project year recipients of ETV contract awards will be regularly monitored and will be required to submit reports and materials including prototypical pilot materials and a formative evaluation which will serve as the basis for determining whether assistance for the project will be continued or terminated.

CONCLUSION

The major events described in this report have dealt with the developmental process which preceded the implementation of the ESAA IV program in the 1976 fiscal year. Also during the period covered by the report the National Advisory Council on Equality of Educational Opportunity (NACEEO) met in Atlanta, Georgia, on May 26-27-28, 1976 to review the preliminary results of the national evaluation of the ESAA Basic Grant and Pilot Project program categories and to receive a progress report on FY 1976 funding activities from the Associate Commissioner for EEOP. The notice of public meeting was published in the Federal Register (Vol. 41, No. 78) on April 21, 1976 (Appendixes - Section I). The next NACEEO meeting is scheduled to be held on September 24-25, 1976 in Alexandria, Virginia.

An analysis of the preliminary results of the first year of the national evaluation of the ESAA Basic Grant and Pilot Project program categories was presented in the previous seventh ESAA report. During this reporting period the preliminary draft of a report describing the second year ESAA evaluation was prepared and is tentatively scheduled for public release in August/September 1976. All data related to the third and concluding year of the evaluation were collected during this period.

At the end of the period covered by this report the Second Supplemental Appropriations Act of 1976 (P.L. 94-303) was enacted on June 1, 1976. It provided ESAA with additional funding authority for the fiscal year ending June 30, 1976 and for the transitional funding quarter from July 1, 1976 through September 30, 1976.

A supplemental appropriation of $30 million was made available through September 30, 1976 under the discretionary funding authority of section 708(a) of the act for special programs and projects to provide emergency assistance to school districts which adopted late court-ordered or voluntary desegregation plans (§706 (a)(1) (A) and (B)) subsequent to January 14, 1976 for implementation during the 1976-77 school year. An additional $3 million was appropriated to implement section 708(a) during the transitional funding quarter from July 1, 1976 through September 30, 1976.

A complete funding summary for the 1976 fiscal year will be presented in the subsequent ninth semiannual ESAA report to the President and to the Congress. The ninth report will be prepared following the completion of the FY 1976 ESAA funding cycle on September 30, 1976.

Appendix 5-B

FEDERAL ASSISTANCE TO DESEGREGATING SCHOOL DISTRICTS *

EMERGENCY SCHOOL AID ACT

Title VII, Public Law 92-318,
as Amended by the Education Amendments of 1974,
Public Law 93-380

A Report on Activities
May 1975 - September 1975
and a
Three-Year ESAA Funding Summary for
Fiscal Years 1973 - 1974 - 1975

As Required Under Provisions of
Section 714, Title VII, Public Law 92-318

April 1976

U.S. Department of Health, Education, and Welfare
David Mathews, Secretary
Virginia Y. Trotter, Assistant Secretary for Education

Office of Education
T. H. Bell, Commissioner

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*Due to space limitations, the report is reprinted here without accompanying appendices. The full report is retained in the Subcommittee files.

Emergency School Aid Act
Title VII, Public Law 92-318,
as amended by Public Law 93-380

(b) The purpose of this title is to provide financial assistance --

(1) to meet the special needs incident to the elimination of minority group segregation and discrimination among students and faculty in elementary and secondary schools;

(2) to encourage the voluntary elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority group students;

(3) to aid school children in overcoming the educational disadvantages of minority group isolation.

DISCRIMINATION PROHIBITED--No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance, or be so treated on the basis of sex under most education programs or activities receiving Federal assistance.

PREFACE

This is the seventh semiannual report to the President and to the Congress on Federal Assistance to Desegregating School Districts as required under section 714 of the Emergency School Aid Act (ESAA), title VII of Public Law 92-318, as amended by the Education Amendments of 1974, Public Law 93-380.

ESAA is administered by the Commissioner of Education under authority delegated by the Assistant Secretary for Education in the Department of Health, Education, and Welfare. In the Office of Education program operations are conducted under the direction of the Associate Commissioner for Equal Educational Opportunity Programs (EEOP) in the Bureau of School Systems (BSS).

The seven ESAA reports cover the following periods:

I. August 1970 - September 1972... activities conducted under the Emergency School Assistance Program (ESAP)... issued September 23, 1972.

II. September 1972 - March 1973... developmental activities in preparation for implementation of ESAA I program in FY 1973... issudd June 29, 1973.

III. April 1973 - September 1973... implementation of the ESAA I program in FY 1973 with complete funding analysis and examples of representative projects... issued September 28, 1973.

IV. September 1973 - March 1974... developmental activities in preparation for implementation of the ESAA II program in FY 1974 based on the FY 1973 funding experience... issued March 30, 1974.

V. April 1974 - September 1974... implementation of the ESAA II program in FY 1974 with funding analysis and examples of representative projects... issued September 30, 1974.

VI. September 1974 - May 1975... developmental activities in preparation for implementation of the ESAA III program in FY 1975 with an analysis of proposed changes based on the Education Amendments of 1974 (P.L. 93-380) and an evaluation of the FY 1973 representative projects...May 30, 1975.

VII. May 1975 - September 1975 ... implementation of the ESAA III program in FY 1975 and 3-year funding summary by individual project for fiscal years 1973, 1974, and 1975 including a progress report on the preliminary results of the national evaluation of specific ESAA programs and projects ... issued April 1976.

FEDERAL ASSISTANCE TO DESEGREGATING SCHOOL DISTRICTS

The seventh semiannual report on the Emergency School Aid Act (ESAA) covers the continuing developmental activities related to the implementation of the ESAA III program with a funding analysis of ESAA expenditures in FY 1975. The report presents a 3-year funding summary by individual project for fiscal years 1973, 1974, and 1975 covering the total ESAA funding history. Also included is a progress report on the preliminary results of the national evaluation of specific ESAA programs and projects.

I. CONTINUING ESAA PROGRAM DEVELOPMENT AND IMPLEMENTATION: FY 1975

At the time of the issuance of the sixth ESAA report on May 30, 1975, the developmental phase of the ESAA program was still in progress. Authorization for ESAA activities at a rate not to exceed that for FY 1974 was provided for the period extending through the end of the 1975 fiscal year by continuing resolution (P.L. 93-324 and subsequent extensions). However, funds to implement the ESAA program for FY 1975 had not yet been appropriated.

As a result the development of plans and procedures for implementation of the ESAA program in FY 1975 had been delayed. The processing of applications and funding procedures had to be compressed into a greatly reduced time span. To telescope the process certain procedures in the ESA Administrative Manual were modified for FY 1975. The usual pregrant site reviews were not required. The HEW Office for Civil Rights (OCR) expedited the processing of OCR Verification of Plan Reviews and OCR Compliance Status Reviews. The time period for the Regional Directors' Review of FY 1975 applications was reduced from 15 to 5 days. In addition EEOP headquarters staff provided extensive emergency support and technical assistance at the Regional Offices during the funding process.

A May 16 closing date for receipt of applications in all ESAA program categories except Educational Television (May 19) had been announced in the April 11 Federal Register (Vol. 40, No. 71). However, numerous inquiries to the Office of Education indicated that many prospective ESAA applicants were unable to complete their applications in time to meet the May 16 deadline. Consequently, notice of the extension of the closing date to June 2 for receipt of ESAA applications for Basic Grants, Pilot Projects, Nonprofit Organization Grants, and Bilingual Grants was announced in the May 23 Federal Register (Vol. 40, No. 101). In these categories applications which had not been submitted in time to meet the May 16 deadline were accepted through June 2. Also those applications which had been submitted prior to May 16 could be reviewed, revised, and refiled by June 2.

On June 12 the President signed the Supplemental Appropriation Act for fiscal year 1975 which included $215 million for Emergency School Aid to be made available for obligation through September 30.

II. ESAA PROGRAM CATEGORIES

In FY 1975 as in the previous 2 funding years ESAA grants have been awarded in a variety of program categories. However, some changes in the ESAA regulations have been made this year to conform with the provisions of the Education Amendments of 1974 (P.L. 93-380) and to incorporate other revisions and modifications designed to provide more effective program implementation. The proposed rules for Emergency School Aid (45 CFR Part 185) were published in the Federal Register (Vol. 40-No. 61) on March 28, 1975, and the final regulations on June 12, 1975 (Vol. 40-No. 114).

Following is a description of the major ESAA program categories and the significant changes adopted for the FY 1975 funding year:

Basic Grants

> Basic Grants are awarded to eligible school districts to meet the special needs incident to the elimination, reduction, or prevention of minority group segregation and discrimination and to assist elementary and secondary school children in overcoming the educational disadvantages of minority group isolation. Grants may be awarded to any local education agency (LEA) which is implementing or will implement if assistance is made available a desegregation plan or a plan to eliminate, reduce, or prevent minority isolation. Project activities must be directly related to such activities.

Under the Basic Grants category a broader and more comprehensive definition has been provided for plans to prevent minority isolation which might reasonably occur in the absence of assistance. To participate in an LEA prevention plan a school must currently have at least 20 percent but not more than 50 percent minority enrollment and must provide evidence that if the plan is not implemented the proportion of minority students could exceed 50 percent either during the year for which funds are requested or during the following year. Any further extension of enrollment projections beyond a 2-year period do not provide a sufficiently reliable basis for justifying the expenditure of limited program funds.

As noted above, an LEA prevention plan can only include schools with a minority enrollment of between 20 and 50 percent. LEAs with a total minority enrollment of over 50 percent must provide sufficient information to insure that program funds will not be used in any school to reinforce a significantly disproportionate minority group enrollment of over 70 percent. In addition an LEA must also provide its predominantly minority schools with services that are comparable to those provided to all other schools to which its plan relates.

An independent basis of eligibility has also been provided for LEAs which have a total minority enrollment of over 50 percent to request assistance under the Basic Grants category for the establishment or maintenance of one or more integrated schools if the LEA agrees to apply for an equal amount of assistance for a Pilot Project. An integrated school must have:

- either an enrollment in which at least 40 percent of the children are from educationally advantaged backgrounds
- or an enrollment in which the current reading achievement test scores of at least 50 percent of the children are at the 60th percentile of above as compared with the scores of students in all of the schools of the LEA--or a stable enrollment in which nonminority children constitute not more than 65 percent of the enrollment nor less than the proportion of nonminority children in all of the schools of the LEA.

In addition, an integrated school must have a faculty in which the percentage of minority teachers, supervisors, and administrators is within 10 percent of the total minority group representation in the school district or must show that the number of minority faculty has increased by 10 percent or more during the preceding 3-year period and is within 10 percent of the total minority faculty in all of the schools of the LEA.

Selection criteria for LEA assistance were also revised to include a new objective criterion for "effective net prevention of minority group isolation" to rate applications requesting assistance for prevention plans and integrated schools projects. The degree of prevention of minority isolation can be calculated by comparing the expected enrollments in schools affected by the plan or project if it is implemented with the expected enrollments if the plan or project is not implemented.

Based on past program experience the ESAA selection criteria rating scales were analyzed and revised to provide more responsive and equitable measuring instruments for the FY 1975 funding year. In order to balance more evenly the programmatic and statistical scores changes were made in the following three major areas:

1. Greater emphasis was placed on educational quality as a factor in determining the applicant's composite score.

2. Growth projections were incorporated into the rating scale structure to reflect changing LEA enrollment patterns.

3. The parameters at the lower levels of the statistical rating scales were extended to meet the desegregation-related needs of school districts with relatively small numbers of minority children.

These revisions applied equally to both large and small school districts and in relation to ESAA funding did not affect the LEA's competitive position within the State.

Similar changes related to criteria for assistance were also made for Pilot Projects, Bilingual Grants, and Nonprofit Organization Grants.

Section 185.13(n) of the ESAA regulations which placed specific limitations on the use of appropriated funds for the transportation of students or teachers to achieve racial balance was revised in accordance with section 252, title II, P.L. 93-380 and the amended section 420 of the General Educations Provisions Act to prohibit the use of any ESAA program funds for the transportation of students or teachers to overcome racial imbalance or to implement a desegregation plan.

Pilot Projects

Pilot Projects are awarded for unusually promising projects designed to overcome the adverse effects of minority group isolation by improving the academic achievement of children in minority isolated schools. To be eligible an LEA must be implementing either a desegregation plan or a plan to eliminate, reduce, or prevent minority group isolation which would make it eligible for a Basic Grant. In addition, at least 15,000 minority students must be enrolled in the schools of the LEA or constitute more than 50 percent of the total LEA enrollment.

The ESAA regulation related to eligibility criteria for Pilot Projects was revised to provide that an LEA applying for an integrated schools project must also apply for a Pilot Project even if it had not received a Basic Grant award as long as one or more schools meeting the requirements for an integrated schools project is maintained during the period of assistance.

Nonprofit Organization Grants

Nonprofit Organization (NPO) Grants are made to public or private nonprofit agencies or organizations to carry out projects designed to support the implementation of an eligible LEA plan. LEAs are not eligible to apply for grants in this category.

The provision in the ESAA regulations which provided that not more than 33 percent of a State allotment for grants to Nonprofit Organizations could be awarded for activities relating to a single LEA has been deleted.

Bilingual Grants

Bilingual Grants are awarded to LEAs in which minority children do not receive equal educational opportunity due to language and cultural differences. To qualify an LEA must be implementing an eligible plan and meet the requirements for a Basic Grant. Grants may also be awarded to nonprofit organizations to develop bilingual/bicultural curriculums at the request of an eligible LEA.

The provision in the ESAA regulations that not more than 30 percent of the funds for Bilingual Grants can be awarded for projects in any one State has been deleted. In addition, ESAA general provisions related to eligibility limitations and waivers of ineligibility have been made applicable to LEAs which request funds either directly or through nonprofit organizations to develop bilingual educational programs.

Metropolitan Area Projects

The 5 percent reservation of funds for Metropolitan Area Projects was eliminated under P.L. 93-380. These projects were awarded to school districts within or adjacent to a Standard Metropolitan Statistical Area (SMSA) to further the elimination, reduction, or prevention of minority isolation. Interdistrict transfer funds were also provided to assist LEAs located within or adjacent to an SMSA in the transfer of minority students for the purpose of establishing and maintaining integrated schools.

Although Congress did not appropriate funds for Metropolitan Area Projects, it was permissible for school districts to apply for funding under the special programs and projects authorization in section 708 of the act for interdistrict transfer and area-wide-plan projects involving a number of LEAs. LEAs were also eligible to receive State apportionment funds for certain interdistrict transfer projects under the Basic Grants category but only in competition with other applications. In view of the expected increase in competition for funds in these categories, the provision in the ESAA regulations which provided that funds awarded for any special type of metropolitan project in any one State should not exceed 30 percent has been deleted.

Educational Television (ETV) Projects

ESAA grants are awarded for the development and production of integrated children's television programs of sound educational value. The programs are produced for children at the elementary and secondary level in such categories as bilingual/bicultural education, reduction of interracial tension among students, and minority needs in special U.S. geographical areas.

As a result of program experience during the last two funding years, the authorized areas of concern for FY 1975 have been revised. Two previous program areas have been retained: improving the written and oral expression of secondary students with language deficiencies and meeting special minority needs which are unique to particular geographical regions. Two new areas have been added: fostering interracial and interethnic understanding among elementary school age children and improving the cognitive skills of elementary school age children in such areas as mathematics, science, social studies, and language (including the language skills of students whose dominant language isnot English).

In addition, the ESAA regulations have been revised to require that recipients of funds to develop an educational television series must produce prototypical pilot materials at times specified by the Assistant Secretary and must then conduct an evaluation of the materials to serve as the formative evaluation of the series. Any subsequent decision by the Assistant Secretary that production of the series should not be continued can be a basis for termination of assistance. Any commitment of funds made by the recipient pertaining to production activity beyond the evaluation phase will not be recognized unless the Assistant Secretary has made a favorable decision on project continuation. This enables OE to terminate contracts whose pilot programs show little promise of success.

Special Projects

> Special Projects are awarded from funds specifically set aside for special programs and projects which the Assistant Secretary determines will make a substantial contribution to the achievement of ESAA objectives. States and other U.S. jurisdictions, local education agencies, and other public organizations are eligible for assistance for all Special Projects except mathematics. Only nonprofit private agencies are eligible for Special Mathematics Projects.

ESAA awards in the Special Projects category are made in the following program areas: Emergency Special Projects, Special Arts Projects, Special Mathematics Projects, Special Student Concerns Projects, and Other Special Projects including awards to U.S. jurisdictions other than States. Emergency Special Projects were established to meet the immediate emergency needs of school districts which adopted desegregation plans or received court-ordered plans too late in the school year to apply for ESAA assistance from State apportionment funds. ESAA funds totaling $1.7 million were awarded to four such school districts in FY 1975.

ESAA regulations related to Special Projects have been revised and reorganized to cover the following program areas:

Special Arts Projects. The regulations no longer require that Special Arts Projects should be conducted primarily in schools in which the proportion of minority students does not exceed 50 percent of the enrollment. Awards to schools with a minority enrollment of over 20 percent are considered to be consistent with the purpose of the Special Arts Projects category.

Special Mathematics Projects. In implementation of P.L. 93-380 the ESAA regulations have provided for grants to private nonprofit organizations to conduct in cooperation with one or more eligible LEAs special programs of instruction in advanced mathematics by qualified instructors.

Special Student Concerns Projects. The regulations have also provided for ESAA grant awards designed to eliminate or reduce the disproportionately high incidence of suspensions, expulsions, and other disciplinary actions involving minority students. Grants may be awarded to public agencies other than LEAs to conduct projects in cooperation with one or more eligible local education agencies. Each project must contain two major components:

(1) to identify probable causes and formulate remedial action for the disproportionately high incidence of disciplinary actions involving minority students in the schools of the cooperating LEAs and to make a report on the results of the findings.

(2) to develop and implement a program designed to eliminate these disproportionate disciplinary actions in one or more schools in each cooperating LEA.

Other Special Projects. Special Reading Projects have been removed from this category. Applicants with needs that were previously met by Special Reading Projects may apply for funds under the Basic Grant and Pilot Project authorizations.

Evaluation Contracts

Contracts awarded for national evaluation of specific programs and projects funded under ESAA are administered by the OE Office of Planning, Budgeting, and Evaluation. An analysis of the preliminary findings of the national evaluation of the Basic Grants and Pilot Projects categories is presented on page 38 of this report.

III. ESAA FY 1975 EXPENDITURE

The $215 million appropriated for ESAA expenditure in FY 1975 was allocated according to specific activity authorizations in the legislation. Eighty-seven percent was made available for apportionment among the States. Each State was allocated $75,000 plus an additional amount based on its proportion of minority children to the total number of minority children in all the States. No State received less than $100,000. The remaining 13 percent was reserved for specific set-aside programs and discretionary projects administered on a national basis. ESAA FY 1975 funds were distributed as follows among the various program categories:

Program Category	Percentage	Appropriation	Obligation
		(in thousands of dollars)	
Basic Grants	64	$133,537	$135,386*
Pilot Projects	15	33,948	33,948
NPO Grants	8	18,103	18,103
Bilingual Grants	4	9,052	9,052
ETV Projects	3	6,794	7,794**
Special Projects	5	11,309	8,460***
Evaluation	1	2,257	2,257
	100	$215,000	$215,000

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*Includes $1,849 transferred from discretionary funds.

**Includes $1,000 transferred from discretionary funds.

***Excludes $2,849 in discretionary funds transferred to Basic Grants and ETV categories.

The $215 million ESAA obligation for FY 1975 was used to fund 829 projects in 47 States and 5 jurisdictions other than States. In FY 1975 ESAA applicants requested a total $530 million or 41 percent more than the actual amount obligated. Of the total 1,476 ESAA applications

829 projects or 56 percent were funded for an overall average award of $259,349. A funding analysis of the total ESAA FY 1975 obligation by program category is shown in Table 1-A (page 10). Following is a funding summary of the 5 program areas represented in the Special Projects category:

FY 1975: Special Projects (Discretionary Funds)*
(in millions of dollars)

	Amount Requested	Amount Obligated	Number of Awards
Emergency Special Projects	$ 2.7	$1.7	4
Special Arts Projects	2.4	1.1	11
Special Math Projects	4.3	0.7	3
Special Student Concerns	3.7	1.5	9
Other Special Projects	10.3	3.5	7
Total	$23.4	$8.5	34

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*The total FY 1975 appropriation for Special Projects was $11.3 million. A total of $2.8 million in discretionary funds was transferred to the Basic Grants ($1.8 million) and ETV ($1.0 million) categories.

A total FY 1975 funding summary of the ESAA program categories is presented by HEW Region in Table 1-B (page 11). The largest amounts were obligated in Region IV/Atlanta ($52.6 million) and Region VI/Dallas ($42.0 million) followed by Region IX/San Francisco ($33.7 million) and Region II/New York ($32.4 million). California received the largest amount ($28.5 million) followed by Texas ($26.6 million) and New York ($26.3 million). Most of the projects were also located in Region VI/Dallas (258) and Region IV/Atlanta (196) followed by Region IX/San Francisco (89) and Region III/Philadelphia (72). Texas had the greatest number (140) followed by California (72) and Louisiana (40).

The South/North & West geographic analysis of FY 1975 funded projects by ESAA program category shown below is based on the following HEW regional distribution: South (Regions III, IV, VI) --- North & West (Regions I, II, V, VII, VIII, IX, X).

TABLE 1-A. TOTAL ESAA FY 1975 OBLIGATIONS BY PROGRAM CATEGORY

Program Category	Amount Requested	Amount Obligated	Percentage of Demand Funded	States Served	Total Applications	Total Awards	Percentage of Applications Funded	[illegible]
Basic Grants	$282,513,436	$135,386,385 *	47.9%	47	677	381	56.2%	$ 355,345
Pilot Projects	70,086,939	33,948,000 **	48.4%	33	214	165	77.1%	205,745
NPO Grants	65,740,707	18,103,000	27.5%	44	400	205	51.3%	88,307
Bilingual Grants	38,902,179	9,052,000	23.3%	8	92	34	37.0%	266,235
ETV Projects	47,537,178	7,793,999 ***	16.4%	7	33	8	24.2%	974,250
Special Projects	25,251,382	8,459,716	33.5%	26 ****	60	34	56.6%	248,815
Evaluation	N/A	2,257,000	N/A	N/A	N/A	2	N/A	1,128,500
TOTAL	$529,998,839	$215,000,000	40.6%	(Includes 47 States & 5 jurisdictions other than States)	1,476	829	56.2%	259,349

* Includes $1,849,283 in supplemental funds transferred from discretionary grant program and $1,462,688 currently being held under a contingency obligation pending resolution of a Buffalo, N.Y. court suit.

** Includes $120,000 also being held under contingency obligation in relation to the Buffalo court suit.

*** Includes $999,999 in supplemental funds transferred from discretionary grant program to ETV category.

**** Includes Guam, Puerto Rico, Virgin Islands, American Samoa, and Trust Territory of the Pacific Islands.

TABLE 1-B. TOTAL ESAA FY 1975 OBLIGATIONS BY REGION SUMMARY BY PROGRAM CATEGORY

Region	Basic Grants		Pilot Projects		NPO Grants		Bilingual Grants		ETV Contracts		Special Projects		Evaluation Contracts		Total	
	Amt.	No. of Awards	Amt.	No. of Awards	Amt.	No. of Awards	Amt.	No. of Awards	Amt.	No. of Awards	Amt.	No. of Awards	Amt.	No. of Awards	Amt.	No. of Awards
I. Boston	$ 4,201,166	12	$ 386,076	1	$325,207	7	-	-	$ 1,920,600	2	$1,499,761	3	-	-	$ 8,472,925	25
II. New York City	17,418,751	20	7,912,236	10	2,367,680	16	681,192	1	1,000,000	1	2,295,575	5	-	-	32,375,376	53
III. Philadelphia	13,238,215	37	3,128,700	14	3,811,163	20	-	-	-	-	56,930	1	-	-	20,223,016	72
IV. Atlanta	36,300,000	86	11,251,605	54	4,130,784	45	1,306,700	2	250,000	1	991,600	8	-	-	57,301,991	196
V. Chicago	12,779,600	28	2,146,625	6	3,537,772	23	-	-	250,000	1	401,120	4	-	-	19,225,126	62
VI. Dallas	25,084,352	129	5,595,503	58	5,179,670	35	6,655,330	26	1,783,999	2	988,972	7	-	-	42,369,986	250
VII. Kansas City	3,413,233	16	190,449	2	370,167	5	-	-	-	-	363,412	1	-	-	4,337,369	24
VIII. Denver	3,700,015	20	738,493	7	386,904	12	739,960	1	-	-	-	-	-	-	6,456,372	40
IX. San Francisco	20,417,566	31	3,044,965	11	2,988,292	35	3,700,730	4	1,000,000	1	1,993,262	5	$ 2,257,000	2	35,401,801	89
X. Seattle	1,336,677	6	-	-	383,461	6	-	-	-	-	-	-	-	-	1,720,138	12
TOTAL	$135,386,385	381	$ 33,948,000	165	$18,103,000	205	$9,052,000	34	$ 7,793,999	8	$8,459,716	34	$ 2,257,000	2	$215,000,000	829

	South		North & West		Total	
Category	Amount (millions)	No. of Awards	Amount (millions)	No. of Awards	Amount (millions)	No. of Awards
Basic	$ 73.8 (54%)	252 (66%)	$61.6 (46%)	129 (34%)	$135.4	381
Pilot	19.9 (59%)	126 (76%)	14.0 (41%)	39 (24%)	33.9	165
NPO	9.1 (50%)	101 (49%)	9.0 (50%)	10[illegible] (51%)	18.1	205
Bilingual	5.9 (65%)	28 (82%)	3.2 (35%)	6 (18%)	9.0	34
ETV	2.2 (28%)	3 (38%)	5.6 (72%)	5 (62%)	7.8	8
Special Projects	2.0 (2[illegible])	16 (47%)	6.4 (76%)	18 (53%)	8.5	34
Evaluation	-	-	2.3 (100%)	2 (100%)	2.3	2
Total	$112.9 (52%)	526 (63%)	$102.1 (48%)	303 (37%)	$ 215.0	829

The preceding geographic comparison shows that of the total $215 million FY 1975 expenditure $112.9 million or 52% was obligated in the South and $102.1 million or 37 percent in the North and West. Of the total 829 funded projects 526 or 63 percent were awarded in the South and 303 or 37 percent in the North and West. In the State apportionment programs the South received an overall average of 13 percent more funds and 42 percent more projects in the Basic and Pilot categories with NPO grants almost evenly distributed. In the National program categories (Bilingual, ETV, and Special Projects) the North and West received 43 percent more funds and 31 percent more projects including both of the Evaluation Contracts.

IV. ESAA FY 1975 APPLICATION AND FUNDING PROCESS

As in previous years ESAA applications for the various program categories were evaluated in FY 1975 according to selection criteria designed to conform with specific requirements in the legislation and were subject to extensive examination by OE regional staff and non-Federal review panels with special expertise in educational programs and school desegregation. The eligibility of local education agencies (LEA) or their supportive nonprofit organizations (NPO) to receive ESAA assistance was determined by the HEW Office for Civil Rights (OCR) also in accordance with specific legislative requirements.

ESAA applications were rated on the basis of a composite funding score derived from two sets of selection criteria: a statistical or objective criteria score and an educational quality or programmatic criteria score.

The statistical criteria scores were determined from a series of rating scales based on specific requirements of the various ESAA program categories. The rating scales measured the minority enrollment in the LEA and the extent of effective net reduction or prevention in minority isolation which would occur as a result of the implementation of the LEA plan.

The programmatic criteria scores were derived from an evaluation of the educational quality of the application based on specific requirements of the various program categories in relation to: Needs Assessment - Objectives - Activities - Resource Management - Evaluation - Replicability (Pilot Projects only). A combination of the statistical and programmatic rating scores determined the applicant's composite score. In order to compete successfully for ESAA assistance an applicant had to achieve minimally acceptable programmatic and composite rating scores. Minimum objective criteria scores were not required. Applications which rated below the minimally acceptable level were returned and could be revised for competition in the resubmission funding process. Maximum and minimum rating scores for the State apportionment programs for FY 1975 are shown below.

Funding Criteria for State Apportionment Programs

	Objective Criteria		Programmatic Criteria		Composite Score	
	Maximum Points Possible	Minimum Points Acceptable	Maximum Points Possible	Minimum Points Acceptable	Maximum Points Possible	Minimum Points Acceptable
Basic Grants	80	0	45	28	125	40
Pilot Projects	55	0	53	33	108	45
NPO Grants	40	0	45	28	85	40

A detailed explanation of the FY 1975 statistical and programmatic criteria rating scales for the various ESAA program categories as well as methods and examples of computing effective net reduction or prevention of minority group isolation was presented in the sixth ESAA report: Applicant Manual for Local Education Agency Grants (appendix L) and Manual for Nonprofit Organization Grant Applications (appendix M).

Following the review and evaluation process ESAA applications which received minimally acceptable rating scores were placed in rank order from the highest to the lowest rated applications with the highest scoring proposals given first consideration for available funds. Applicants for the ESAA State apportionment programs were funded in priority rank within their States while the other program categories were rank ordered nationally.

The ESAA legislation requires that before an LEA application can be disapproved the applicant must be advised of the reasons for the disapproval and provided with an opportunity to revise and improve its application. Nonprofit organizations are provided with the same opportunity.

Since ESAA funds were not appropriated until late in the 1975 fiscal year, the three major ESAA funding phases were compressed into two funding cycles. The initial funding phase was followed by a second or resubmission phase for the State apportionment and Bilingual programs which this year was combined with the final or reapportionment funding phase during which State apportionment funds in excess of the amount required by any State were reapportioned to other States with unmet funding needs.

In the first funding phase four-fifths of the total amount apportioned to each State was obligated for initially submitted applications. The remaining one-fifth was reserved for awards during the second or resubmission funding phase. Applicants competed in rank order both during the initial funding phase and for the one-fifth reservation and were again rank ordered when the revised applications were resubmitted in the second funding phase.

As a result of the resubmission process a revised application submitted in the second funding phase could possibly have received a higher score than an initial application which was rated above the minimally acceptable level but was not funded in the initial funding phase because it ranked below other applications in the State. Consequently, these initial applicants were also provided with an opportunity to participate in the resubmission process in order to improve their rating scores and competitive positions.

During the reallocation process uncommitted balances from States in which no fundable projects remained were made available to other States in which the initial amount of State apportionment funds was not sufficient to support the number of fundable projects. The uncommitted State balances were placed in a national pool and reallocated to States which still had fundable projects based on the formula specified in section 705 of the ESAA legislation. The remaining fundable projects were rank ordered within States until all State apportionment funds were exhausted. The principle of competition within States was maintained throughout the entire funding procedure.

Definitions of pertinent administrative procedures related to the ESAA application and funding process are reviewed below:

Resubmits: Applications which scored below the minimally acceptable level (see page 13) in the initial funding phase but which could be revised and resubmitted for competition in the second funding phase. Also included in the resubmission process were applications in Fiscal Hold (see below) which were not funded in the initial phase due to limitation of funds.

Ineligibles: Applicants which were declared ineligible at the time of the initial funding but whose legal problems could be resolved in time for competition in the resubmission and reallocation funding phases.

Waiver Holds:	Funds held under contingency obligation pending the disposition of litigation related to waivers of ineligibility.
Fiscal Holds:	Applications rated above the minimally acceptable cut-off scores but for which funds were insufficient because of the four-fifths limitation in the initial funding phase to support the next highest ranking approved application. Fiscal Holds can be revised and resubmitted for competition during the resubmission funding process.

Funding summaries of ESAA FY 1975 State Apportionment awards for Basic, Pilot, and NPO Grants are presented by HEW Region in Table 2-A (page 16).

The table shows the funds available in the original apportionments and the final amounts obligated, the number of applications received and funded, the amounts still held in Waiver Hold, and the total unmet needs representing approved projects which still remained in Fiscal Hold and did not receive ESAA assistance due to lack of funds.

During the reallocation process substantial funds were reallocated from Region V (Illinois), Region VII (Missouri), and Region IX (Arizona, California) to meet additional funding needs in Region I (Massachusetts), Region II (New York), and Region IV (Georgia, Alabama, South Carolina, Florida). ESAA funds were also utilized to target emergency assistance to areas of greatest need. Some $1.7 million of the $2.8 million in State apportionment funds received by Boston in FY 1975 was transferred from discretionary program funds to provide emergency assistance in the implementation of Boston's desegregation plan. The addition of almost $2 million dollars in Emergency Special Project funds provided to Boston in FY 1975 brought to over $4 million the total ESAA FY 1975 obligation for Boston.

A total of $187.4 million or 45 percent of the total $416.6 million requested was obligated for the State apportionment programs in FY 1975. Since only $185.6 million was available for the State programs, $1.8 million was transferred from discretionary program funds to meet special needs in the Basic Grants category. Approved but unfunded applications remaining in Fiscal Hold at the end of the funding process represented $56.1 million in unmet desegregation needs.

Of the total 1,292 applications submitted in the State apportionment program categories, 751 projects or 58.1 percent were funded for an overall average award of $249,584. The most applications were both

TABLE 3-A. REGIONAL FUNDING SUMMARY OF ESAA FY 1973 STATE APPORTIONMENT AWARDS FOR BASIC, PILOT & NPO GRANTS

Region	Funds Available	Funds Approved	Applications Received	Applications Funded	Waiver Hold		Total Unexpended (Fiscal Hold)
					Number	Amount	
I. **BOSTON**							
Basic Grants	$ 2,330,620	$ 4,351,101 *	17	12	-	-	$ 1,407,752
Pilot Projects	648,379	386,876	2	1	-	-	0
NPO Grants	365,751	325,207	13	7	-	-	234,830
REGIONAL TOTAL	3,344,750	5,063,184	32	20	-	-	1,642,582
II. **NEW YORK CITY**							
Basic Grants	16,940,423	17,418,751 **	43	20	1	$1,462,000	7,697,340
Pilot Projects	4,306,623	7,912,236 ***	20	10	1	120,000	0
NPO Grants	2,296,338	2,367,620	53	16	-	-	2,349,560
REGIONAL TOTAL	23,543,383	27,698,607	116	46	2	1,582,000	10,046,900
III. **PHILADELPHIA**							
Basic Grants	13,401,386	13,228,215	55	37	-	-	3,396,686
Pilot Projects	3,406,968	3,128,708	14	14	-	-	0
NPO Grants	1,816,768	1,811,143	40	20	-	-	1,526,517
REGIONAL TOTAL	18,625,122	18,168,066	109	71	-	-	4,923,203

* Includes $1,696,061 transferred from the discretionary account to Boston.

** Includes $1,462,000 being held under a contingency obligation in relation to the Buffalo court suit.

*** Includes $ 120,000 held under contingency obligation in relation to the Buffalo court suit.

TABLE 2-A. REGIONAL FUNDING SUMMARY OF LEAA FY 1975 STATE APPORTIONMENT AWARDS FOR BASIC, PILOT, & MPO GRANTS

Region	Funds Available	Funds Approved	Applications Received	Applications Funded	Waiver Hold		Total Unexpended (Fiscal Hold)
					Number	Amount	
IV. ATLANTA							
Basic Grants	$ 30,161,866	$ 34,300,090 ****	177	86	-	-	$15,185,544
Pilot Projects	7,667,881	11,253,665	71	54	-	-	2,501,187
MPO Grants	4,088,906	4,131,764	84	43	-	-	2,226,682
REGIONAL TOTAL	41,918,573	49,935,327	332	183	-	-	19,913,413
V. CHICAGO							
Basic Grants	18,060,219	12,779,600	35	26	-	-	2,233,433
Pilot Projects	4,780,394	2,146,635	11	8	-	-	0
MPO Grants	2,334,083	2,537,772	37	23	-	-	690,822
REGIONAL TOTAL	26,183,895	17,486,006	83	57	-	-	2,924,255
VI. DALLAS							
Basic Grants	22,890,067	25,963,352	244	129	-	-	10,444,887
Pilot Projects	5,821,643	5,535,583	67	58	-	-	0
MPO Grants	3,104,384	3,179,670	80	36	-	-	2,391,180
REGIONAL TOTAL	31,826,434	34,700,605	393	223	-	-	12,836,067
VII. KANSAS CITY							
Basic Grants	3,289,830	2,413,121	17	14	-	-	131,154
Pilot Projects	836,344	190,649	3	2	-	-	0
MPO Grants	445,906	270,167	6	5	-	-	28,022
REGIONAL TOTAL	4,572,150	2,873,937	26	21	-	-	159,176

**** Includes $153,224 transferred from discretionary grant program.

TABLE 2-A. REGIONAL FUNDING SUMMARY OF ESAA FY 1975 STATE APPORTIONMENT AWARDS FOR BASIC, PILOT, & NPO GRANTS

Region	Funds Available	Funds Approved	Applications Received	Applications Funded	Waiver Hold		Total Grant Need (Fiscal [illegible])
					Number	Amount	
VIII. DENVER							
Basic Grants	$ 2,426,764	$ 2,700,815	37	20	-	-	$1,380,104
Pilot Projects	616,934	728,693	7	7	-	-	0
NPO Grants	328,985	288,906	22	12	-	-	405,450
REGIONAL TOTAL	3,372,683	3,724,412	66	39	-	-	1,885,556
IX. SAN FRANCISCO							
Basic Grants	21,284,825	20,417,546	40	31	-	-	0
Pilot Projects	5,411,064	2,644,965	17	11	-	-	0
NPO Grants	2,885,488	2,928,292	61	35	-	-	1,132,156
REGIONAL TOTAL	29,581,377	25,990,803	118	77	-	-	1,132,156
X. SEATTLE							
Basic Grants	1,741,981	1,534,677	11	6	-	-	40,229
Pilot Projects	442,830	0	1	0	-	-	0
NPO Grants	236,133	243,461	6	6	-	-	51,225
REGIONAL TOTAL	2,420,944	1,778,138	18	12	-	-	91,454
NATIONAL TOTAL							
Basic Grants	133,337,000	135,386,285	678	381	1	1,462,680	42,119,137
Pilot Projects	33,948,000	33,948,000	214	165	1	120,000	2,301,187
NPO Grants	18,103,000	18,103,000	400	205	-	-	11,436,424
GRAND TOTAL	$185,388,000	$187,437,285	1292	751	2	$1,582,680	$56,076,748

submitted and funded in Region IV (Atlanta), Region VI (Dallas), and Region IX (San Francisco). Texas, California, and New York in that order submitted the most applications with Texas, California, Louisiana, New York, South Carolina, Georgia, and Virginia receiving the most awards. The fewest applications were both submitted and funded in Region I (Boston), Region VII (Kansas City), and Region X (Seattle) with Maine, New Hampshire, and Vermont requesting no ESAA assistance. Nebraska, Nevada, Alaska, Iowa, Idaho, Minnesota, and Oregon, which submitted the fewest applications, received the fewest funded projects.

At the end of the ESAA funding process the greatest unmet needs representing approved applications in Fiscal Hold for which no funds were available remained in Region II (New York), Region IV (Atlanta), and Region VI (Dallas). The highest levels of unmet needs were in New York, North Carolina, and Alabama followed by Texas, Georgia, South Carolina, Florida, and Oklahoma. In only six of the States requesting assistance in the State apportionment programs were all of the needs related to desegregation and minority group isolation met.

A similar funding summary of FY 1975 ESAA awards in the National program categories for Bilingual Grants, Educational Television Projects, Special Projects, and Evaluation Contracts is presented by HEW Region in Table 3-A (page 20).

In FY 1975 a total of $27.6 million was obligated for the National program categories or 24 percent of the total $114.7 million requested. The overall average award for the National programs was $353,368 or some 18 percent higher than the overall average award for the State apportionment programs. Of the total 192 applications submitted in the National program categories, 78 projects or 41 percent were funded.

In the National program categories the largest amounts were requested in Region II (New York), Region VI (Dallas), Region IX (San Francisco), and Region I (New York) with the most funds obligated in Regions IX and VI. Regions VI and IX also submitted the most applications and were awarded the most projects. The largest amounts were obligated in California, Texas, Massachusetts, and New York with Texas and California receiving the most awards.

V. ESAA PROGRAM ANALYSES

Authorized Activities

The ESAA legislation provides for 12 areas of authorized activity for Basic Grants and Pilot Projects. An analysis of the various types of activities conducted by school districts which received awards in these program categories in FY 1974 and FY 1975 is shown below. The analysis is based on a sampling projection of 50 representative projects selected by the Regional Offices. For the purpose of this analysis two of the authorized activity areas--provision for additional professional staff and teacher aides--were integrated into other areas as supportive activities. The irregular percentage spreads in the sampling are indicative of the large number of activities incorporated into the same project by some school districts while other districts concentrated their activities in fewer areas. A somewhat smaller number of Pilot Projects were represented

TABLE 2-A. REGIONAL FUNDING SUMMARY OF ESAA FY 1975 NATIONAL AWARDS FOR BILINGUAL/ETV/SPECIAL PROJECTS (DISCRETIONARY)/EVALUATION

Region	Amount Requested	Amount Obligated	Number of Applications	Number of Awards	Average Award
I. BOSTON					
Bilingual Grants	$ 1,596,710	$ 0	2	0	$ 0
ETV Projects	11,907,828	1,910,000	7	2	955,000
Special Projects	3,790,903	1,499,741	7	3	499,914
REGIONAL TOTAL	17,295,441	3,409,741	16	5	681,948
II. NEW YORK CITY					
Bilingual Grants	14,023,764	681,192	16	1	681,192
ETV Projects	7,115,485	1,800,000*	6	1	1,800,000
Special Projects	8,207,060	2,193,575	6	5	438,715
REGIONAL TOTAL	29,346,309	4,674,767	28	7	668,110
III. PHILADELPHIA					
Bilingual Grants	335,510	0	1	0	0
ETV Projects	9,416,799	0	6	0	0
Special Projects	3,587,657	54,950	11	1	54,950
REGIONAL TOTAL	13,339,966	54,950	18	1	54,950
IV. ATLANTA					
Bilingual Grants	1,766,199	1,394,780	3	2	697,390
ETV Projects	503,855	250,000	2	1	250,000
Special Projects	2,737,790	991,684	15	8	123,960
REGIONAL TOTAL	5,007,844	2,636,464	20	11	239,679

* Includes $999,999 in supplemental funds transferred from discretionary grant program to ETV category.

TABLE 3-4. REGIONAL FUNDING SUMMARY OF ESAA FY 1975 NATIONAL AWARDS FOR BILINGUAL/ETV/SPECIAL PROJECTS (DISCRETIONARY)/EVALUATION

Region	Amount Requested	Amount Obligated	Number of Applications	Number of Awards	Average Award
V. CHICAGO					
Bilingual Grants	$ 952,873	$ 0	2	0	$ 0
ETV Projects	1,230,516 •	250,000	3	1	250,000
Special Projects	954,694	491,120	5	4	122,780
REGIONAL TOTAL	3,138,083	741,120	10	5	148,224
VI. DALLAS					
Bilingual Grants	9,654,900	4,455,330	45	26	171,358
ETV Projects	8,581,026	1,923,999	5	2	961,999
Special Projects	1,659,366	969,973	9	7	138,567
REGIONAL TOTAL	19,895,292	7,349,302	59	35	209,980
VII. KANSAS CITY					
Bilingual Grants	143,010	0	1	0	0
ETV Projects	4,619,156	0	2	0	0
Special Projects	873,079	263,412	3	1	263,412
REGIONAL TOTAL	5,635,245	263,412	6	1	263,412
VIII. DENVER					
Bilingual Grants	1,307,307	729,960	8	1	729,960
ETV Projects	249,330	0	1	0	0
Special Projects	0	0	0	0	0
REGIONAL TOTAL	1,556,637	729,960	9	1	729,960

TABLE 3-A. REGIONAL FUNDING SUMMARY OF ESAA FY 1973 NATIONAL AWARDS FOR BILINGUAL/ETV/SPECIAL PROJECTS (DISCRETIONARY)/EVALUATION

Region	Amount Requested	Amount Obligated	Number of Applications	Number of Awards	Average Award
IX. SAN FRANCISCO					
Bilingual Grants	$ 8,946,733	$ 1,790,730	13	4	$ 447,686
ETV Projects	4,027,233	1,660,000	3	1	1,660,000
Special Projects *Evaluation Contracts	6,193,668	1,993,262	10	5	398,652
REGIONAL TOTAL	19,167,634	7,701,000 *	26	12 *	641,750 *
X. SEATTLE					
Bilingual Grants	175,193	0	1	0	0
ETV Projects	0	0	0	0	0
Special Projects	99,272	0	1	0	0
REGIONAL TOTAL	274,465	0	2	0	0
NATIONAL TOTAL					
Bilingual Grants	$ 38,902,179	$ 9,052,000	92	34	$ 266,235
ETV Projects	47,631,310	7,793,999	33	8	974,250
Special Projects	28,103,409	8,459,716	67	34	248,815
GRAND TOTAL	114,636,898	27,562,715*	192	78*	353,368 *
* Evaluation Contracts	N/A	$ 2,257,000*	N/A	2	$ 1,128,500 *

in the sampling which resulted in lower percentage ranges for that category.

	Authorized Activity	Basic Grants FY 1974	Basic Grants FY 1975	Pilot Projects FY 1974	Pilot Projects FY 1975
1.	Special Remedial Services	71.4%	81.3%	14.1%	18.3%
2.	Inservice Staff Training	38.9%	52.0%	13.4%	815%
3.	Guidance & Counseling Services	39.2%	44.5%	10.9%	6.7%
4.	Curriculum Development	45.0%	37.9%	9.9%	7.3%
5.	Career Education/Shared Facilities	13.8%	13.1%	7.0%	4.8%
6.	Innovative Interracial Activities	54.0%	53.0%	6.3%	3.6%
7.	Community Activities	54.3%	54.8%	2.1%	2.4%
8.	Administrative & Auxiliary Service	48.2%	49.0%	5.6%	4.8%
9.	Planning & Evaluation	57.7%	56.9%	6.3%	6.7%
10.	Facility Repair	4.9%	1.5%	0.7%	0.6%

The results show that the highest level of activity for both the Basic and Pilot programs during the 2 project years occurred in Special Remedial Services with significant increases in remedial activities projected for FY 1975.

In the Basic Grants category which focuses on the reduction or prevention of minority isolation, the major program emphasis was placed on Special Remedial Services, Planning and Evaluation, Community Activities, and Innovative Interracial Activities. The greatest increases in specific activities projected for FY 1975 were in the areas of Inservice Staff Training, Special Remedial Services, and Guidance and Counseling Services.

With its emphasis on compensatory education the Pilot Projects category stressed Special Remedial Services, Inservice Staff Training, Guidance and Counseling Services, and Curriculum Development and projected an increase in Special Remedial Services for the FY 1975 project year.

An analysis is also shown below of the authorized activities conducted by Nonprofit Organizations in FY 1974. The projected levels of activity for NPO Grants in FY 1975 did not differ significantly from those in FY 1974.

	Authorized Activity	FY 1974
1.	Community Information Programs	15%
2.	Home-Focused Programs	9%
3.	Cultural Enrichment Activities	5%
4.	Interracial Social and Recreational Programs	5%
5.	Interracial Educational Enrichment Programs	9%
6.	Career Orientation Activities	0%
7.	Dropout Prevention Programs	18%
8.	Supplemental Remedial Services	34%
9.	Administration	5%

Nonprofit Organizations, whose community based projects supported LEA plans and programs, placed major emphasis on Supplemental Remedial Services, Dropout Prevention Programs, Community Information Programs, and Interracial Educational Enrichment Programs.

Approved and Disapproved Applications

During ESAA's 3-year funding history LEAs have submitted over 4,000 applications for assistance under the Basic, Pilot, and Bilingual categories. Of the approximate 3,500 applications approved for funding in these categories, a total of 1,925 LEA projects or some 55 percent received awards.

Fiscal 1975 was the first funding year in which ESAA applications approved for funding in the State apportionment and Bilingual programs were not funded because all appropriated funds had been exhausted. At the end of the funding year 397 projects representing $69.7 million in unmet needs remained in Fiscal Hold due to the unavailability of further funds:

Approved Applications/Unavailable Funds: FY 1975

	Number	Amount
Basic Grants	212	$42,119,137
Pilot Projects	13	2,501,187
NPO Grants	122	11,456,424
Bilingual Grants	50	13,658,905
Total	397	$69,735,653

During each funding year a number of LEA applications are disapproved because they do not meet one of the following ESAA eligibility or quality standards: the overall LEA plan is declared ineligible under section 706(a) of the ESAA legislation, the LEA does not meet specific eligibility limitations under section 706(d), the educational quality of the application in the view of the review panels does not meet ESAA funding criteria, or the need for assistance is not justified in relation to ESAA funding criteria. Following is a 3-year summary of the number of disapproved LEA applications as well as the amount of funds involved for each project year:

Disapproved Applications	Number of LEAs			Amount Requested (in millions of dollars)		
(LEA Applications: Basic, Pilot, Bilingual)	FY 73 (1,500)*	FY 74 (1,600)*	FY 75 (984)	FY 73	FY 74	FY 75
Overall LEA plan not eligible	44	68	27	$6.3	$37.9	$10.7
LEA did not meet specific eligibility limitations	31	26	14	24.2	24.6	5.6
Low educational quality of application	63	146	57	18.4	87.6	22.7
Low need for assistance	19	12	20	3.4	3.5	8.0
Total	157	252	118	$52.3	$15336	$47.0

*Approximate Number

Out of approximately 4,000 LEA applications which were submitted during the 3-year period for Basic Grants, Pilot Projects, and Bilingual Grants, a total of 527 applications or 13.1 percent were disapproved representing a total of $252.9 million in funds requested. In FY 1973 out of the approximate 1,500 LEA applications', 157 or 11 percent were disapproved In FY 1974 out of an approximate 1,600 LEA applications, 252 or 16 percent were disapproved representing a ratio of increase of more than 5 percent over FY 1973. In FY 1975 the incidence of disapproved applications decreased to 12 percent or a ratio of some 4 percent less than in FY 1974 for a total of 118 disapprovals out of the 984 LEA applications submitted.

Over the 3-year period the educational quality of the applications accounted for the most disapprovals and for the largest amount of funds requested except for FY 1973 when the largest funding requests were made by LEAs which did not meet specific eligibility requirements. Ranking second as the cause of disapprovals was the ineligibility of overall LEA plans followed by the failure of LEAs to meet specific eligibility limitations. The fewest disapprovals were caused by the low need for assistance with funding levels varying for the last three categories. The low need for assistance was based on the LEA's statistical or objective criteria score which indicated that it could not reach a nationally acceptable measure of need due to its small minority student enrollment and the low probability of minority reduction or prevention of isolation.

Type of Plan

In order to be eligible for ESAA assistance a local education agency had to be implementing either a desegregation plan or a plan to reduce, prevent, or eliminate minority isolation. A 3-year analysis of the type of plan under which LEA applicants for Basic, Pilot, and Bilingual Grants were declared eligible to redeive ESAA assistance is presented below. The appropriate eligibility requirements relating to the ESAA legislation are also cited.

Type of Plan: Number of LEAs & Amount Obligated (in millions of dollars)

	FY 1973		FY 1974		FY 1975	
	No.	Amt.	No.	Amt.	No.	Amt.
Court Order (Federal/ State Court Order or State Agency Order) (Sec. 706(a)(1)(A)(i))	323 (54%)	$87.8 (59%)	275 (43%)	$110.0 (55%)	203** (42%)	$98.2** (55%)
*Voluntary Plan Approved by HEW under Title VI CRA 1964 (Sec. 706(a)(1)(A)(ii))	168 (28%)	26.0 (17%)	276 (43%)	54.7 (28%)	210 (44%)	59.0 (33%)
Nonrequired Plan (Sec. 706(a)(1)(B); (C)(i), (ii), (iii); (D))	107 (18%)	35.7 (24%)	92 (14%)	33.3 (17%)	65 (14%)	21.7 (12%)
Total	598	$149.5	643	$119.0	478	$178.9

*Plans adopted by LEAs to eliminate violations of Title VI of the Civil Rights Act of 1964.

**Does not include 2 projects involving $1.5 million in Basic Grant funds and $120,000 in Pilot Project funds currently being held under contingency obligation pending resolution of a Buffalo, N.Y., court suit.

Over the 3-year period some 1,719 LEAs representing 61 percent of the total 2,819 ESAA projects were declared eligible to receive ESAA awards for Basic, Pilot, and Bilingual grants totaling approximately $527.4 million or 82 percent of the 3-year grand total ESAA obligation of $643.5 million:

	Total ESAA Projects Funded	LEAs Funded	Total ESAA Obligation (in millions of dollars)	LEA Obligation (in millions of dollars)
FY 1973	909	598 (66%)	$194.5	$149.5 (77%)
FY 1974	1,081	643 (60%)	234.0	199.0 (85%)
FY 1975	829	478 (58%)	215.0	178.9 (83%)
Total	2,819	1,719 (61%)	$643.5	$527.4 (82%)

A greater number of LEAs were declared eligible to receive ESAA assistance under court-ordered plans in FY 1973 and under voluntary plans in both FY 1974 and FY 1975. In each year the fewest LEAs were granted eligibility under nonrequired plans. More funds were obligated each year for LEAs implementing court-ordered plans followed by LEAs with nonrequired plans in FY 1973 and by LEAs with voluntary plans in FY 1974 and FY 1975. In FY 1973 the least amount of funds was obligated for LEAs with voluntary plans and for LEAs with nonrequired plans in FY 1974 and FY 1975.

Among the nonrequired LEA plans funded in FY 1975 were four interdistrict transfer projects, two integrated schools projects, and a metropolitan planning project:

Interdistrict Transfer: Connecticut
Canton Board of Education...$67,798
Farmington Board of Education...$106,510
Stamford Board of Education...$200,880

Massachusetts
Brookline Public Schools...$75,000

Integrated Schools: Illinois
West Harvey School District #147...$143,516

Missouri
Normandy School District...$142,113
(St. Louis)

Metropolitan Planning: New York
West Irondequoit School District...$371,022
(Rochester)

Most of the comprehensive LEA plans include components for prevention of minority group isolation. Funds for Basic Grants awarded to LEAs which are implementing comprehensive district-wide plans are often utilized for prevention projects. Funding prevention activities as an integral part of the LEA's overall comprehensive plan provides an assurance that prevention programs will be included in the formulation of the most extensive and innovative approaches to the problems of minority isolation.

OCR FY 1975 Review

During FY 1975 the HEW Office for Civil Rights (OCR) conducted post-grant on-site reviews of 128 school districts which had received ESAA awards during the previous FY 1974 funding year. Other ESAA-funded districts received OCR desk reviews. These OCR reviews caused many school districts to take remedial actions to correct identified violations of the ESAA legislation or its implementing regulations. OCR also participated in pre-grant activities related to the eligibility of school districts to receive ESAA assistance in FY 1975. In conducting eligibility reviews of FY 1975 applicants OCR processed 808 LEA and nonprofit organization applications.

Due to the short ESAA funding cycle for FY 1975 the usual 6-month civil rights clearance process had to be compressed into a 2-month time period. Clearance of eligible school districts was handled as usual at the regional level. However, responsibility for the expeditious processing of letters of ineligibility to those school districts not in compliance with ESAA eligibility requirements was centralized and coordinated at the national level this year. The actual clearance procedures were conducted by OCR regional staff who then transmitted the information relative to the determinations of ineligibility to OCR headquarters in Washington. OCR headquarters staff worked closely with the HEW Office of the General Counsel (OGC) to draft letters of ineligibility which the Associate Commissioner of EEOP sent directly to the appropriate school districts so that they could immediately take remedial actions in order to become eligible to receive ESAA assistance during the funding year.

In order to establish their eligibility for ESAA assistance these school districts could apply to the Secretary of HEW for a waiver of ineligibility under section 706(d) and 45 CFR 185.44 of its implementing regulations. The waiver application must present information and assurances which show that the practices which caused the ineligibility have ceased to exist and will not reoccur. Among other assurances it must include either an affirmative action plan which provides clear evidence that the reduction in minority faculty recruitment and hiring due to attrition will be restored or a plan approved by the school district for implementation by the start of the 1975-76 school year which eliminates discriminatory assignments of minority students to racially identifiable schools.

Although ESAA waivers of ineligibility were processed again this year at OCR Headquarters, OCR regional staff worked at Washington headquarters in order to expedite the waiver application review process. Of the total 739 LEA applications processed by OCR during this period, 84 of the applicant school districts were declared ineligible to receive ESAA assistance. Following preliminary hearings eligibility was restored to four of these districts. Fifty-three school districts applied to the Secretary for waivers of their ineligibility. Thirty-nine of the waivers were approved for districts which were judged to have taken sufficient remedial action to eliminate the causes of their ineligibility. Fourteen waiver requests were denied by the Secretary which in addition to the 27 school districts with ineligible desegregation plans brought to 41 the total number of school districts declared ineligible to receive ESAA assistance during the 1975 funding year.

The following changes represent the measurable impact of OCR ESAA-related compliance activities during FY 1975:

- 64,818 minority and nonminority students were reassigned from racially identifiable classrooms.
- 14,502 minority and nonminority students who had been discriminatorily assigned to special education classes were retested and reassigned.
- 156 minority teachers, 11 minority principals and administrators, and 10 minority coaches were hired or will be hired during the next several years under affirmative action plans adopted by school districts.
- 320 teachers and 48 principals were reassigned to eliminate racial discrimination in staff assignments.
- 769 students deficient in language comprehension were identified and are currently receiving bilingual instruction.

NACEEO Report

The National Advisory Council on Equality of Educational Opportunity (NACEEO) advises the Assistant Secretary concerning ESAA and reviews overall program operations. On June 28, 1975, the President signed P.L. 94-43 which extends the existence of NACEEO through September 30, 1976. At the May 1975 meeting NACEEO submitted final recommendations for the third interim report to the President and Congress and scheduled its next meeting for October 1975. The recommendations in the third NACEEO report are summarized below:

A. Advice to the Assistant Secretary:

1. Revision of ESAA rules and regulations to provide ESAA applicants with more equitable review standards in relation to such factors as size of the school district, proportion of minority students, and expertise in the preparation of proposals.

2. Continuance of EEOP activities to improve technical assistance to applicants and grantees.

3. Careful monitoring by EEOP of the composition, roles, and functions of ESAA funding review panels to assure adherence to regulations, criteria, and procedures.

B. Review of Operations:

1. Institution of a comprehensive Federal program providing State block grants for public elementary and secondary education in order to reduce the proliferation of overlapping Federal programs.

2. Establishment by Congress of a procedure for determining national educational goals and accountability in order to assure equal educational opportunity for all the Nation's children.

3. Congressional direction to the National Institute of Education to develop, validate, and maintain national high school competency examinations at the 12th grade level with Federal assistance provided to the States in such an effort.

4. Increased efforts by Congress to improve the quality of education for all students with special emphasis on improving the educational quality of minority impacted and isolated schools.

5. Priority emphasis on high quality education for all elementary school children regardless of the location of the school.

6. Utilization of Federal funds for transportation by providing financial assistance on a matching basis with the States for implementation of court-ordered and/or voluntary desegregation.

7. Promotion by Congress of more effective cooperation between the U.S. Department of State and the U.S. Office of Education to insure adequate educational opportunities for immigrants and refugees including provisions for bilingual education.

8. Provision by Congress of adequate funds for effective evaluation of federally funded programs for elementary and secondary education (including ESAA) and for the dissemination of all relevant data.

9. Dissemination by the National Institute of Education of widely successful public school desegregation and quality education models.

10. Significant strengthening by Congress of the role of the State education agencies in the ESAA program.

11. Provision for the participation of nonprofit organizations in ESAA at the discretion of local education agencies with appropriately structured appeal procedures.

VI. THREE-YEAR CUMULATIVE FUNDING SUMMARY: FISCAL YEARS 1973 - 1974 - 1975

During its 3 funding years the ESAA program has obligated $643.5 million for a total of 2,819 projects affecting an estimated 21 million school children in school districts receiving ESAA awards: FY 1973: 6,980,265 - FY 1974: 8,330,237 - FY 1975: 6,064,413. A summary of ESAA appropriation and obligation levels by program category for the 3-year period follows on page 31.

During its 3-year funding history a total of $643.5 million out of the total $679.4 million appropriation was obligated for ESAA awards. In FY 1973 some $33.4 million in unobligated funds was returned to the U.S. Treasury. About $402,000 was returned to the Treasury in FY 1974 with approximately $2.5 million still held in a contingency fund pending the resolution of litigation to determine the eligibility of certain school districts to receive ESAA assistance. All of the $215 million ESAA appropriation for FY 1975 has been obligated. Table 4-A (page 32) presents a cumulative funding summary by program category of the total ESAA obligations for the 3 funding years. The total number of awards and amounts obligated are shown below.

	No. of Awards	Amount Obligated (millions)
FY 1973	909	$194.5
FY 1974	1,081	233.9
FY 1975	829	215.0
Total	2,819	$643.5

Three-Year ESAA Appropriation (A) and Obligation Levels (O)
(in millions of dollars)

Category	FY 1973 A	FY 1973 O	FY 1974 A	FY 1974 O	FY 1975 A	FY 1975 O	Total A	Total O
Basic	$134.5	$117.7	$146.9	$155.8*	$133.5	$135.4***	$414.9	$408.9
Pilot	34.2	21.9	37.3	27.1	33.9	33.9	105.4	83.0+
NPO	18.2	20.1*	19.9	19.9	18.1	18.1	56.2	58.1
Bilingual	9.1	8.9	10.0	10.0	9.1	9.1	28.2	27.9+
Metro	11.4	5.4	0	0	0	0	11.4	5.4
ETV	11.4	11.4**	7.5	6.9	6.8	7.8***	25.7	26.1
Special Projects	6.8	6.8**	12.4	11.7	11.3	8.4	30.5	27.0
Evaluation	2.3	2.3	2.5	2.5	2.3	2.3	7.1	7.1
TOTAL	$227.9	$194.5	$236.5	$233.9	$215.0	$215.0	$679.4	$643.5

*Amount in excess of appropriation due to reallocation of State apportionment funds.

**Allocations changed by regulation to increase amount available for ETV.

***Amount in excess of appropriation due to transfer of discretionary program funds.

+Total rounded for consistency.

TABLE [illegible]. THREE-YEAR FUNDING SUMMARY BY PROGRAM CATEGORY OF ESAA OBLIGATIONS: FISCAL YEARS: 1973-1974-1975

Program Category	Fiscal Year 1973			Fiscal Year 1974				Fiscal Year 1975				Three-Year Grand Totals		
	No. of Awards	Amount Obligated	Average Award	No. of Awards	Amount Obligated	Average Award	Increase or Decrease(A.A.)	No. of Awards	Amount Obligated	Average Award	Increase or Decrease(A.A	No. of Awards	Amount Obligated	Average Award
Basic Grants	438	$117,675,085	$250,000	360	$95,000,000	$274,375	+ 16,316 (6.3%)	381	$135,386,385	$355,363	+80,970 (29.5%)	1,085	$348,906,450	$ 291,037
Pilot Projects	94	21,959,809	233,615	161	27,115,785	192,310	- 41,305 (17.6%)	163	33,848,000	207,000	+14,690 (7.6%)	400	83,023,594	207,558
NPO Grants	242	20,081,178	83,326	236	19,696,676	83,598	+ 274 (.3%)	185	16,103,000	88,907	+ 5,309 (6.3%)	664	58,080,652	86,913
Bilingual Grants	39	8,888,013	227,898	47	9,950,000**	211,872	- 16,026 (7.0%)	36	9,052,000	266,235	+54,363 (25.6%)	120	27,890,013**	232,483
ETV	5	11,365,963	2,273,189	8	6,890,232	861,279	-1,411,910 (62.0%)	8	7,793,999	974,250	+112,971 (13.1%)	21	26,050,174	1,240,486
Special Projects Grants	57	6,836,186	119,897	77	***11,764,725	152,529	+ 32,632 (27.2%)	36	8,439,716	234,992	+ 82,463 (54.0%)	168	27,038,625***	160,944
Evaluation Contracts	3	2,280,000*	760,000	2	2,400,000	1,204,300	+ 446,300 (63.7%)	2	2,257,000	1,128,500	-116,000 (9.7%)	7	7,086,000*	1,083,716
Metropolitan Area Projects	14	5,448,053	389,146	-	-	-	-	-	-	-	-	14	5,448,053	389,146
TOTAL	982	$ 195,132,352*	$ 216,087	1,084	$153,971,290	$ 216,418	- 931,319	923	$215,000,000	$ 233,369	+236,776	2,819 + (2,791)	$563,471,340* ($564,469,494)	$ 228,362

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* Does not include $987,934 in Evaluation funds allocated from FY 1973 supplemental appropriation funds.

** Does not include $899,968 in discretionary funds transferred from Special Projects to Bilingual category.

*** Includes $899,968 in Special Projects discretionary funds transferred to Bilingual category.

+ Includes 28 awards to individual schools within school districts receiving Special Projects in FY 1973 and FY 1974.

The ESAA funding obligations for the 3-year period have been analyzed in the remaining tables by type of organization receiving the awards: local education agencies (LEA) or public and nonprofit private organizations (PNP).

In presenting the ESAA funding history by type of organization and individual project it was necessary to display Special Projects in both tables since both LEAs and PNPs can receive awards under this category. The LEA table includes Basic Grants, Pilot Projects, Bilingual Grants, Special Reading Projects, Metropolitan Area Projects, and Special Projects (Emergency Special Projects and Other Special Projects including U.S. Jurisdictions Other Than States). The PNP table includes Nonprofit Organization Grants, Educational Television Projects, Special Projects (Special Arts, Special Mathematics, and Special Student Concerns), and Evaluation Contracts.

Through this method of presentation consistency with other tables in this report and previous ESAA reports is maintained. Over the 3 years ESAA awards were made to 782 individual LEAs and to 446 individual PNPs. Total funds and total projects by type of organization are shown below.

	LEA		PNP		TOTAL	
	Amt. (in millions)	No.	Amt. (in millions)	No.	Amt. (in millions)	No.
FY 1973	$159.3	644	$36.3	250	$195.6	894
FY 1974	203.6	808	30.4	260	234.0	1,068
FY 1975	183.6	591	31.3	238	214.9	829
Total	$546.5	2,043	$98.0	748	$644.5	2,791

Over the 3-year period LEAs received 85 percent of the total ESAA funds and 73 percent of the total projects with PNPs receiving 15 percent of the funds and 27 percent of the projects.

TABLE A-3 TOTAL ESAA THREE-YEAR CUMULATIVE REGIONAL FUNDING SUMMARY BY PROGRAM CATEGORY: FISCAL YEARS 1972-1973-1974

Region	Basic Grants		Pilot Projects		NPO Grants		Bilingual Grants		[illegible]		[illegible]		Special Projects		Evaluation Contracts		Total	
	Amt.	No. of Awards	Amt.	No. of Awards	Amt.	No. of Awards	Amt.	No. of Awards	Amt.	No. of Awards	Amt.	No. of Awards	Amt.	No. of Awards	Amt.	No. of Awards	Amt.	No. of Awards
I. Boston	$19,063,795	31	$ 1,136,930	4	$ 1,818,112	17	$ 340,000	3	$ 1,700,000	7	$[illegible],636,710	6	$1,099,761	4	-	-	$33,614,001	72
II. New York City	[illegible],000,063	75	10,703,063	23	7,103,131	30	4,387,000	9	1,998,487	1	3,634,500	6	7,380,983	17	$997,934**	1	79,885,389	178
III. Philadelphia	42,136,037	127	9,480,771	30	6,026,793	77	376,420	2	-	-	1,762,[illegible]	1	1,083,383	11	-	-	61,731,013	236
IV. Atlanta	125,376,000	443	25,665,090	130	13,076,300	176	3,703,737	6	398,437	6	230,000	1	6,333,066	40	-	-	175,061,376	790
V. Chicago	23,004,300	72	3,344,373	15	6,816,271	68	-	-	-	-	2,834,[illegible]	3	1,056,400	8	-	-	30,060,181	163
VI. Dallas	80,300,000	477	14,020,116	136	11,325,000	130	13,930,307	80	333,319	2	3,064,[illegible]	6	3,188,770	31	-	-	120,417,633	890
VII. Kansas City	7,200,000	33	1,316,137	5	665,706	16	99,316	1	-	-	-	-	700,000	6	-	-	10,087,063	57
VIII. Denver	7,445,212	71	1,318,900	15	632,336	35	683,906	4	-	-	-	-	303,760	1	-	-	10,791,317	123
IX. San Francisco	40,813,300	78	5,007,100	23	7,070,075	63	6,480,780	13	-	-	3,100,000	2	3,379,383	18	7,000,000**	6	66,437,330	217
X. Seattle	4,031,936	30	438,600	3	730,316	30	472,000	3	-	-	401,[illegible]	2	67,739	1	-	-	6,096,133	47
Total	[illegible]	1,407	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]*	120	[illegible]	16	[illegible]	21	[illegible]	138	[illegible]**	2	[illegible] [illegible]3,471,365	2,721*** (2,819)

* Includes $800,000 in discretionary funds transferred from Special Projects to the Bilingual category in FY 1974.

** Includes $997,934 in Evaluation funds allocated from FY 1973 supplemental appropriation funds.

*** Does not include 38 awards to individual nondesegregating school districts receiving Special Funding projects in FY 1973 and FY 1974.

4-C. [illegible]AR STATE/REGIONAL FUNDING SUMMARY BY TYPE OF ORGANIZATION OF ESAA OBLIGATIONS: FISCAL YEARS 1973 -1974-1975

	State/Region	LEA: Amt.	LEA: No. of Awards	PNP: Amt.	PNP: No. of Awards	Total: Amt.	Grand Total: No. of Awards
Region I (Boston)	1. Connecticut	6,038,718	29	914,593	10	6,953,311	39
	2. Maine	-	-	249,402	1	249,402	1
	3. Massachusetts	7,296,742	13	8,082,384	9	15,379,126	22
	4. New Hampshire	-	-	-	-	-	-
	5. Rhode Island	2,689,241	6	342,921	4	3,032,162	10
	6. Vermont	-	-	-	-	-	-
	REGION I TOTAL	16,024,701	48	9,589,300	24	25,614,001	72
Region II (NYC)	7. New York	61,981,586	76	9,076,509	39	71,058,095	76
	8. New Jersey	10,882,008	38	2,948,246	19	13,830,254	57
	9. Puerto Rico	2,914,436	3	-	-	2,914,436	3
	10. Virgin Islands	3,005,584	3	-	-	3,005,584	3
	REGION II TOTAL	78,783,614	120	12,024,755	58	90,808,369	178
Region III (Phila)	11. Delaware	1,578,940	10	163,565	8	1,742,505	18
	12. D. C.	8,794,088	7	759,507	4	9,553,595	11
	13. Maryland	7,700,326	15	1,419,981	11	9,120,307	26
	14. Pennsylvania	13,164,005	32	2,117,622	16	15,281,627	48
	15. Virginia	20,687,284	104	4,226,416	40	24,913,700	144
	16. West Virginia	885,128	8	54,950	1	940,078	9
	REGION III TOTAL	52,809,771	176	8,742,041	80	61,551,812	256
Region IV (Atlanta)	17. Alabama	23,824,267	109	1,767,283	18	25,591,550	127
	18. Florida	32,158,804	61	3,449,331	23	35,608,135	84
	19. Georgia	26,438,239	121	2,841,974	32	29,280,213	153
	20. Kentucky	4,318,580	23	736,865	13	5,055,445	36
	21. Mississippi	13,922,093	60	1,546,207	22	15,468,300	82
	22. North Carolina	25,197,902	104	2,777,056	29	27,974,958	133
	23. South Carolina	19,094,266	100	2,369,724	33	21,463,990	133
	24. Tennessee	13,528,796	34	890,187	16	14,418,983	50
	REGION IV TOTAL	158,482,947	612	16,378,627	186	174,861,574	798
Region V (Chicago)	25. Illinois	12,547,957	37	5,864,134	31	18,412,091	68
	26. Indiana	4,287,788	6	728,083	11	5,015,871	17
	27. Michigan	12,510,525	19	2,153,385	18	14,663,910	37
	28. Minnesota	2,657,794	5	210,680	3	2,868,474	8
	29. Ohio	5,740,768	18	1,006,080	8	6,746,848	26
	30. Wisconsin	2,044,720	5	312,267	2	2,356,987	7
	REGION V TOTAL	39,789,552	90	10,274,629	73	50,064,181	163

(Continued)

TABLE 4-C. THREE-YEAR STATE/REGIONAL FUNDING SUMMARY BY TYPE OF ORGANIZATION OF ESAA OBLIGATIONS: FISCAL YEARS 1973-1974-1975

(Continued)

	STATE/REGION	LEA: Amt.	No of LEA: Awards	PNP: Amt.	No. of PNP: Awards	Total: Amt.	Grand No. of Total: Awards
Region VI (Dallas)	31. Arkansas	10,722,784	104	1,011,837	14	11,734,621	118
	32. Louisiana	21,789,222	118	3,387,207	46	25,176,429	164
	33. New Mexico	7,475,726	75	658,235	9	8,133,961	84
	34. Oklahoma	7,511,666	75	759,332	15	8,270,998	90
	35. Texas	64,470,862	345	11,630,762	79	76,101,624	424
	REGION VI TOTAL	111,970,260	717	17,447,373	163	129,417,633	880
Region VII (K.C.)	36. Iowa	640,309	3	106,093	3	746,402	6
	37. Kansas	2,596,233	14	247,510	6	2,843,743	20
	38. Missouri	5,674,014	22	655,601	7	6,329,615	29
	39. Nebraska	107,302	2	-	-	107,302	2
	REGION VII TOTAL	9,017,858	41	1,009,204	16	10,027,062	57
Region VIII (Denver)	40. Colorado	6,091,694	32	596,494	20	6,688,188	52
	41. Montana	863,816	16	94,857	5	958,673	21
	42. North Dakota	443,322	10	21,246	1	464,568	11
	43. South Dakota	1,072,380	16	-	-	1,072,380	16
	44. Utah	1,163,375	9	100,406	5	1,263,781	14
	45. Wyoming	324,176	8	19,551	1	343,727	9
	REGION VIII TOTAL	9,938,763	91	832,554	32	10,791,317	123
Region IX (S.F.)	46. Arizona	4,300,320	13	522,005	5	4,822,325	18
	47. California	53,751,333	100	19,265,141	72	73,016,474	172
	48. Hawaii	1,865,182	2	191,456	13	2,056,638	15
	49. Nevada	909,806	2	141,054	3	1,050,860	5
	50. Amer. Samoa	544,646	1	-	-	544,646	1
	51. Trust Territories	790,904	3	-	-	790,904	3
	52. Guam	1,855,463	3	-	-	1,855,463	3
	53. Wake Island	-	-	-	-	-	-
	REGION IX TOTAL	64,017,654	126	20,419,656	93	84,437,310	217
Region X (Seattle)	54. Alaska	318,779	3	148,862	4	467,641	7
	55. Idaho	458,332	3	70,287	3	528,619	6
	56. Oregon	1,231,632	3	240,608	5	1,472,240	8
	57. Washington	3,588,524	15	839,211	11	4,427,735	26
	REGION X TOTAL	5,597,267	24	1,298,968	23	6,896,235	47
	NATIONAL GRAND TOTAL	546,452,387	2043	98,017,107	748	644,469,494	2791
		(545,552,419)*	(2,071)**	(98,917,075)*		(643,471,560)***	(2,819)**

* Includes $899,968 in discretionary funds transferred from Special Projects to the Bilingual category in FY 1974.

** Includes 28 awards to individual schools within school districts receiving Special Reading Projects in FY 1973 and FY 1974.

*** Does not include $997,934 in Evaluation funds allocated from FY 1973 supplemental appropriation funds.

The 3-year funding levels and total number of projects are summarized below by HEW Region.

HEW Region	Total Amount (in millions)	Total Number of Projects
I. Boston	$25.6	72
II. New York City	90.8	178
III. Philadelphia	61.6	256
IV. Atlanta	174.9	798
V. Chicago	30.1	163
VI. Dallas	129.4	880
VII. Kansas City	10.0	57
III. Denver	10.8	123
IX. San Francisco	84.4	217
X. Seattle	6.9	47
Total	$644.5	2,791

The largest amounts over the 3-year period were obligated in Region IV/Atlanta ($174.9 million), Region VI/Dallas ($129.4 million), Region II/New York City ($90.8 million), and Region IX/San Francisco ($84.4 million) with the most projects awarded in Regions VI (880), IV (798), III (256), and IX (217). Texas ($76.1 million), California ($73.0 million) and New York ($71.1 million) received the most funds with Texas (424), California (172), and Louisiana (164) awarded the most projects followed by Georgia (153) and Virginia (144).

The 3-year South/North & West geographic analysis shown below is based on ESAA awards by type of organization and utilizes the following HEW Regional distribution: South (Regions III, IV, VI)--North & West (Regions I, II, V, VII, VIII, IX, X):

	South	North & West	Total
Amt.	$365.9 (56.8%)	$278.6 (43.2%)	$644.5
No.	1,934 (69.3%)	857 (30.7%)	2,791

Of the total $644.5 million obligation $365.9 million or 57 percent of the total funds were expended in the South with the North & West receiving $278.6 million or 43 percent of the total funds. The South was awarded 1,934 projects or 69 percent of the total 2,791 projects with 857 projects or 31 perdent awarded in the North & West.

VII. NATIONAL EVALUATION PROGRESS REPORT

Section 713 of ESAA authorizes the reservation of up to 1 percent of the annual appropriation for evaluation of specific programs and projects. In fiscal years 1973, 1974, and 1975 the entire evaluation reservation was utilized for a national evaluation of the Basic Grants and Pilot Projects categories. Beginning in FY 1976 this reservation will also support two new evaluations of Nonprofit Organization Grants and Educational Television Projects.

About three-fourths of the annual ESAA appropriation is reserved for its two major program categories: Basic Grants (64%) and Pilot Projects (15%) in FY 1975. Funds for both program categories are appropriated annually and apportioned to the States on the basis of the ratio of the number of each State's minority children (5-17 years of age) to the number of minority school children in all the States. Local school districts which compete for their State's apportionment must demonstrate that their local needs are related to ESAA objectives and must present a program design based on authorized activities which show promise of achieving one or more of those objectives.

The Basic Grants program provides financial assistance to elementary and secondary schools in meeting needs incident to the reduction of minority group isolation, in eliminating segregation and discrimination, and in aiding school children to overcome the educational disadvantages associated with minority isolation. In contrast with the Basic Grants program which is designed to meet local school district needs related to desegregation, the Pilot Projects category is in many cases a compensatory education program designed to improve the quality of education within minority isolated schools (schools with over 50% minority enrollment) which are located in desegregating school districts. The primary objective is to overcome the adverse effects of minority isolation by improving the academic achievement of students in one or more minority isolated schools. However, since Pilot Project applicants must meet the Basic Grants eligibility requirements, the compensatory education activities associated with Pilot Projects are conducted within the framework of desegregating districts.

The national evaluation of the Basic Grant and Pilot Project programs as developed by the OE Office of Planning and conducted by the System Development Corporation of Santa Monica, California, is designed to determine the cumulative impact of these programs in relation to ESAA objectives over a period of 3 school years. Data collection began during the 1973-74 school year--the first year of ESAA program implementation--and will be completed during the 1975-76 school year. The primary objectives of the evaluation are as follows:

- Determination of the short term and long term national impact of the programs in reducing minority isolation, eliminating racial discrimination, and improving basic skills in elementary and secondary schools.

- Determination of student needs, program resource allocation, characteristics of local programs, and the interrelationship of these factors with overall program impact.

- Documentation and dissemination of information relating to unusually successful local programs and activities.

- Determination of the relative effectiveness of three forms of educational intervention--desegregation, compensatory education, and a combination of the two--as compared with no special intervention in minority isolated schools.

- Investigation of the interrelation of regular school expenditures, supplementary ESAA expenditures, and program impact in an attempt to determine local program cost effectiveness and the minimum supplemental expenditures necessary to insure some measure of program success.

Since school year 1973-74, data have been collected annually from a nationally representative sample of approximately 171 elementary schools--75 with Basic Grants and 42 With Pilot Projects--and 54 secondary schools with Basic Grants located within 85 ESAA-funded school districts. Within each school approximately 60 students in each of grades 3, 4, and 5 or 10, 11, and 12 were randomly selected across sections and within grades to participate in the evaluation. The sample students are followed longitudinally through these grade bands with students in grades 5 and 12 leaving the sample each year. In any one year the evaluation sample involves approximately 27,000 students, 4,000 teachers, 172 principals, and 85 local ESAA coordinators, district business managers and superintendents.

The Basic and Pilot program evaluation design anticipated the fact that the first year of implementation of any national educational program is always a formative one, requiring adaptation of schools, school staff, and students to new projects. Consequently, the results reported here, which focus on the first year of the Basic and Pilot programs, should be considered a progress report on that process of implementation and adaptation rather than a definitive report on the success of the act in achieving its objectives. Later ESAA evaluation results should provide the measure for assessing the act's effectiveness.

An initial finding of the evaluation relates to student needs prior to program implementation. Achievement test results and staff surveys showed that prior to ESAA program implementation the students in minority isolated schools as well as minority students in desegregated schools suffered severe educational disadvantages. For example, achievement data collected at the beginning of the first year of ESAA implementation indicated that students in minority isolated schools were achieving at approximately the 19th percentile in reading and the 15th percentile in mathematics. This meant that 81% of the Nation's students were achieving at higher levels in reading with 85% scoring higher in mathematics.

In desegregated schools student achievement was slightly higher than in minority schools with reading scores at about the 30th percentile and math scores at approximately the 23rd percentile. However, achievement scores analyzed separately for minority and nonminority students indicated that prior to ESAA program implementation minority students in desegregated schools performed at low academic achievement levels similar to their counterparts in minority isolated schools while nonminority students were achieving at approximately the 50th percentile.

A second evaluation finding of interest relates to the effectiveness of the ESAA resource allocation process in terms of its focus on student educational needs. Evaluation results indicate that the grant award process effectively targeted funds to educationally needy school districts; school districts targeted ESAA funds to needy schools; schools, in turn, focused their ESAA funds on basic skill programs directly related to student needs; and finally, at least at the elementary level, the intensity of basic skill services received by students was directly related to the severity of their needs.

One of the major objectives of the Basic Grants program category is to effect a substantial reduction in minority group isolation. However, evaluation results indicate that only a small overall reduction in minority isolation occurred in ESAA school districts during the first year of the program. Only 20 percent of the school districts in the evaluation sample achieved any significant new reduction. These results are apparently indicative of the fact that relatively few of the school districts applying for Basic Grants during the first year were newly desegregating districts. Most districts in the evaluation sample had desegregated prior to the receipt of an ESAA award.

The desegregation plans of the school districts in the evaluation sample which received Basic Grants were also studied. The analysis showed that redrawn district boundaries and student reassignment accompanied by the need to transport students were the most frequently utilized elements in the plans. Transportation of students as a result of reassignment was more likely to be a major element in a desegregation plan if the school district had a small total enrollment or a low percentage of minority students. More minority students than nonminority students were involved in transportation when school districts used this method to implement their desegregation plans. The results reflected a positive relationship between the utilization of this method and more effective school desegregation.

A second ESAA objective of both the Basic Grant and Pilot Project categories is to aid school children in overcoming the educational disadvantages associated with minority isolation. Student achievement scores in reading and mathematics obtained prior to program implementation compared with similar scores made more than 5 months later show positive achievement gains during the funded period. In general, the achievement gains either approached or exceeded those which normally would be expected from students in average schools. Achievement gains in mathematics were somewhat higher than those in reading while gains in the Basic Grant programs slightly exceeded those for Pilot Projects. At this time the relatively large gains demonstrated by students in the ESAA-funded districts cannot be directly attributed to ESAA funding. The second and third year evaluations should establish more clearly the relationship between ESAA funding and student achievement gains.

Evaluation results relating to the third objective of the Basic Grants program--to reduce segregation and discrimination among students and faculty in elementary and secondary schools--were not definitive during the first year. Second year results should better address this issue.

The first year evaluation results also indicate that staff and student relationships as well as program characteristics and student achievement levels differ somewhat in comparing minority isolated schools with desegregated schools. Preliminary findings indicate that in minority isolated schools there is a positive relationship between the level of funding provided for supplemental reading programs and student achievement in reading and mathematics. Similarly, lower pupil/teacher ratios seem to bear a positive relationship to student mathematics achievement in minority isolated schools. No such relationships were identified in desegregated schools. However, in desegregated schools positive desegregation-related policies, attitudes, and activities of school staff appear to be related to positive student attitudes and expectations as well as to higher reading and mathematics achievement levels. At the secondary level in desegregated schools the results also suggest a positive relationship between reading achievement and the amount of time spent in reading instruction.

In summary, preliminary evaluation results show that during the first year of implementation both the Basic Grant and Pilot Project programs were effective in targeting funds and services to school districts, individual schools, and minority isolated students with the greatest educational needs. Further, the resource allocation process seems to have had a positive impact on the academic achievement of students in ESAA-funded school districts. Although the results are encouraging in these areas, evaluation data and program operational experience clearly indicate that future ESAA funding efforts need to be focused especially on meeting emergency needs associated with new or further reduction in minority isolation.

VIII. CONCLUSION

Legislative recommendations designed to provide a more responsive and flexible program of Federal desegregation assistance are currently under study at the Office of Education. The Emergency School Aid Act was originally developed as a 2-year emergency measure. However, more than 2,800 ESAA awards have been made over the last 3 years. The dramatic increases in new school desegregation during the period 1971-73 when the desegregation-related needs of the Nation's schools--especially in the South--were at their highest level have now decreased significantly. Most of the urgent needs for emergency assistance which were critical during the transition from a dual to a unitary school system have now been met although many of these school districts still experience continuing problems.

At this stage in the ESAA developmental process a more concentrated and responsive approach is under study to implement ESAA objectives more effectively by targeting assistance to school districts with immediate and severe needs and at the same time providing continuing yet more flexible support for the existing State and National programs.

In addition, there is mounting evidence that both student and teacher human relations programs within desegregated schools should be strongly supported. Positive evaluation findings concerning the effectiveness of these programs are consistent across four OE research studies.

Southern Schools, the comprehensive evaluation of the Emergency School Assistance Program (ESAP) which preceded ESAA, concluded that interracial understanding and harmony in the desegregated school environment contributed significantly to minority achievement. The study found that teacher training programs in human relations--as opposed to general teacher training--and student intergroup relations programs resulted in more positive white student attitudes. A reanalysis of the report data confirmed these findings and further revealed that human relations training for teachers improved their own racial attitudes and behavior. Also, as reported above, similar conclusions were reached on the basis of the first year evaluation of ESAA.

In order to insure immediate feedback of these results into the ESAA program, EEOP regional staff provided individualized technical assistance services during the application process in both FY 1974 and FY 1975 to help ESAA applicants develpp their proposals with effective human relations components to complement the basic instructional and support service programs. This did not mean that the importance of basic instructional and support services was in any way minimized. EEOP believes that the inclusion of skillfully designed human relations components in support of basic instructional program objectives greatly increases the possibility that minority achievement levels will be raised.

A third nationwide evaluation--Successful School Desegregation--is currently underway. Preliminary results also indicate that student and teacher human relations programs are effective in improving race relations within desegregated schools.

The impact of these studies along with the positive student expectation and achievement gains identified during the first year of the ESAA national program evaluation will be carefully weighed in revising overall plans to improve the effectiveness of the effort to bring equality of educational opportunity to all of the Nation's school children.

Appendix 6

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
OFFICE OF EDUCATION
WASHINGTON, D.C. 20202

Descriptions of
CHILDREN'S TELEVISION SERIES
Produced Under The
Emergency School Aid Act
(P.L. 92-318)

Special Projects Branch
Equal Educational Opportunity Programs
Bureau of Elementary & Secondary Education
U.S. Office of Education
Washington, D.C. 20202
(202) 245-2465 or 245-0931

October 1976

GENERAL INFORMATION

The integrated children's television series for minority and non-minority children funded under the TV setaside of the Emergency School Aid Act (ESAA-TV), which are described on the following pages, are available to commercial and non-commercial broadcast users for a small charge to cover the cost of distribution. Thirteen weeks exclusivity for each show in a series is guaranteed to the first station, public or commercial, airing a series in a market. This is true whether or not the airing is a function of a national network feed.

Commercial stations, especially, should bear in mind that all ESAA-TV series have been produced with a home-viewing audience in mind. However, all series should also prove suitable for classroom use.

Commercial stations must broadcast programming without commercial sponsorship. Adjacent spots should be demarcated by a PSA and/or a station ID. Commercials for products of specific appeal to youngsters should not be run adjacent to a series.

School systems in areas where a series is being broadcast by a public or commercial station are free to copy it off-air for subsequent use. School systems may also obtain pre-recorded tapes of a series for a fee which covers the cost of duplication and distribution. All ESAA-TV programs are available for school use without any additional usage rights fees. This condition applies for 12 years in the case of the four series employing union talent: Villa Alegre, Infinity Factory, As*We*See*It, and The Sixth Period; and in perpetuity for all other series.

The series employing union talent are available for broadcast over public stations during three separate weeks per year for six years. (A "week" is defined as unrestricted use during a seven day period.) Carriage as the result of a network feed will be counted toward this limitation. Residual rights covering at least one commercial station broadcast in each of two three-year periods have also been obtained for the four series employing union talent.

For series not employing union talent, no use restrictions, beyond the thirteen weeks exclusivity guarantee, apply.

Public stations affiliated with regional networks should note that each regional network is being supplied with a free set of 2 inch tapes of each ESAA-TV series it requests for distribution by interconnect and/or by mail.

Information about the conditions governing availability of a completed series in either 2 inch broadcast format, or in prerecorded nonbroadcast formats for in-school use, should be directed to the distributor listed at the end of each series description.

Inquiries about availability of series still in production can be made to the producers, whose addresses and phone numbers are also listed at the end of each description.

General inquiries about ESAA-TV may be directed to either ESAA-TV Program Officer, Dr. Dave Berkman, or Special Projects Branch Chief, Dr. Thomas W. Fagan at the address or phone number on the cover page.

AVAILABLE NOW

"Gettin' Over"

A series of 52 half-hour programs for adolescents, stressing the information they will need to cope with their fast approaching responsibilities. Shot two-thirds live-on-tape and one-third film, each show concentrates on a single topic under such headings as home, auto, credit and related consumer skills; pre-natal and child care; job hunting and upgrading; civil and criminal legal rights; preventive health care and availability of medical services. The series (which has completed a run on PBS), is built around a permanent cast of a dozen teenagers who rap, question, argue, and investigate. A single program will include eight to ten segments with roleplays, filmed explanations, question and answer sessions, and bits of electronic wizardry among the more common format devices. Original-scored rock music is used extensively throughout to set mood and enhance pace. [Produced under a $1,762,298 award to the Educational Film Center (known at the time of award as the Northern Virginia Educational Telecommunications Association, Inc.), Box 1444, North Springfield, Virginia 22151. Phone (703) 321-9410. Available from the Public Television Library, 475 L'Enfant Plaza, Washington, D.C. 20024. Phone (202) 488-5220.]

"Carrascolendas"

A 130 half-hour program series for children 3 through 9, which is part in English and part in Spanish. The series takes place in the mythical town of Carrascolendas-- a set measuring almost 100 feet square with a dozen buildings surrounding a 50 foot square plaza. Each building interior is fully finished and furnished since all exteriors pull away to allow for complete camera access. Characters include Agapito Gomez y Gomez y Gomez-- "the world's only bilingual lion;" Mabel, the hip, Black magician; and an assortment of zanies and straights, both Anglo and Latino. Programs 1 through 78 are each a complete, single storyline, musical comedy with an average of six original, fully scored and frequently choreographed musical numbers. Shows 79 through 130 each consist of 18 to 20 "bits and pieces." Some are musical, some are slapstick, and some are games, while others are satirical-- a frequent gambit being take-offs on popular TV series. Series content for all 130 shows stresses affective (emotional and attitudinal) concerns. Evidence from its current PBS airing indicates that Carrascolendas appeals equally to both English and Latino youngsters. [Produced under three funding awards totalling $4,794,809, to KLRN (TV), Box 7158, Austin, Texas 78712. Phone (512) 471-1631. Available from the Public Television Library, 475 L'Enfant Plaza, Washington, D.C. 20024. Phone (202) 488-5220.]

"Vegetable Soup"

This highly popular series (which recently completed a run on NBC), is intended to bridge the gap between different racial and ethnic groups. Cartoons, animated puppets, and film serials are among the formats that will make up each show. The serialized dramatizations should prove an important element in bringing audiences back for the next program. Currently available are the first 39 of 78 half-hour programs. (These first 39 programs are also available in an alternative version as 78 quarter-hour shows.) [Produced under a $1,584,510 award to the Bureau of Mass Communication, New York State Department of Education, Albany, New york 12234. Available from the Great Plains National Instructional TV Library, Lincoln, Nebraska 68501. Phone (402) 467-2502.]

"Villa Alegre"

The first 130 of 195 shows in this highly popular series of half-hour programs now airing on PBS. Villa Alegre is a Spanish-English series intended for both Anglo and Latino children 3 through 9. Each show consists of perhaps a dozen different elements (many of them musical), shot half live-on-tape and half film. Film includes about half animation-- both cel and computer-generated. Each of the Villa Alegre shows concentrates on one of five content areas: food and nutrition; energy; environment; interpersonal relations; and man-made things. [Produced under two awards totaling $5,160,000, plus a $1,000,000 grant from the Exxon Foundation to BC/TV, Inc., 2150 Valdez, Oakland, California 94612. Phone (415) 839-5678. Available from the Public Television Library, 475 L'Enfant Plaza, Washington, D.C. 20024. Phone (202) 488-5220.]

"Mundo Real"

The first 20 shows of a 28 half-hour program bilingual series for children 7 through 12, which is built around the continuing drama format popular with Latino audiences. The series focuses on a fictional, mainland, Puerto Rican family and the problems and opportunities faced by their children. [Produced under two awards totaling $500,000 to Connecticut Public Television, 24 Summit Street, Hartford, Connecticut 06106. Phone (203) 278-5310. Available from the Public Television Library, 475 L'Enfant Plaza, Washington, D.C. 20024. Phone (202) 488-5220.]

"South by Northwest"

Black cowboys and pioneers are the subjects, and well known Black talent are the stars of this series of 5 half-hour programs for 7 through 15 year olds, which deals with the still all but ignored role played by Blacks in the development of the Northwest. All programs have been shot live-on-tape in locales similar to those where the depicted events took place. Among those appearing in lead and featured roles in the series are Esther Rolle, Johnny Rae McGhee, Vonetta McGhee, and Thalamus Rasulala. [Produced under a $242,594 award to, and partially with a $40,000 in-kind contribution from, KWSU-TV, Washington State University, Pullman, Washington 99163. Phone (509) 335-2681. Available from the producer.]

"Infinity Factory"

The first 52 of an 82 half-hour program series (now airing on PBS). Infinity Factory offers its 7 through 12 year old viewers the opportunity to learn math as it's never been learned before--interestingly and entertainingly. Neither "new math" nor "old math," the series stresses how mathematics can help the individual in day-to-day life by exploring its applications in art, science, technology and nature. Many of the film, tape and animated bits in each show are designed to engage the viewing child's active involvement in and with the activity on the screen. Because the content and approaches to math presented in this series complement rather than compete or conflict with what is taught in the schools, broadcasters airing it will have an excellent opportunity to work with their local school systems in viewer promotion. [Produced by the Project One Group, under a $4,023,037 award to Education Development Center, Inc., 55 Chapel Street, Newton, Massachusetts 02160. Phone (617) 969-7100. Available from the Public Television Library, 475 L'Enfant Plaza, Washington, D.C. 20024. Phone (202) 488-5220.]

"Rebop"

The first 26 of a 52 half-hour program series for children 7 through 14 (now airing on PBS). The thesis of Rebop is simply that kids dig kids! Each program in the series consists of three film portraits of a different child-- exploring and focusing on his/her total lifespace: family relationships and friends; school; leisure and play; fantasies, hopes, and frustrations. Children selected as subjects cover the whole range of racial and ethnic groups which make up the American mosaic. Sensitive editing and music, composed and scored to suit each portrait, are hallmarks of the series. [Produced under a $2,042,271 award to WGBH-TV, 125 Western Avenue, Boston, Massachusetts 02134. Phone (617) 492-2777. Available from the Public Television Library, 475 L'Enfant Plaza, Washington, D.C. 20024. Phone (202) 488-5220.]

"The Real People"

This series of 9 half-hour programs for children 7 through 12, explores and presents the Indian experience by focusing on the life, lifestyles, traditions and lore of the Plateau Tribes of Eastern Washington, the Idaho Panhandle and Western Montana. Thus, in one show, "A Season of Grandmothers," we see the role played by the older women of the tribes during winter when they spend much of their time telling the children about the beliefs, skills, folk tales and glories of the past. Other programs focus on Native religion, on rodeoing and Indian cowboys-- sometimes Indians were the cowboys-- and on Native People's experiences living in the urban world. [Produced under a $242,099 award to KSPS (TV), South 3911 Regal, Spokane, Washington 99203. Phone (509) 455-3790. Available from the Public Television Library, 475 L'Enfant Plaza, Washington, D.C. 20024. Phone (202) 488-5220.]

"La Bonne Aventure"

A bilingual series of 20, 15-minute programs, intended mainly for those children 4 through 8 from French-Canadian backgrounds in the upper Northeastern part of the United States, designed to prepare these children to overcome some of the cultural shock which many experience on entering Anglo-dominant schools. Puppetry predominates-- as does the music scored and produced by Noel Stookey, (the "Paul" of Peter, Paul, and Mary). [Produced under a $249,402 award to the Maine Public Broadcasting Network, Alumni Hall, University of Maine, Orono, Maine 04473. Phone (207) 866-4493. Available from the Great Plains National Instructional TV Library, Lincoln, Nebraska 68501. Phone (402) 467-2502.]

IN PRODUCTION

"As*We*See*It"

This series of 13 one-hour programs will focus on the tension and conflict situations which arise in desegregating schools and in the community at large. The hope is that by providing intensive examinations of the causes and effects of such conflicts as they occur in the schools depicted, and especially instances of and principles underlying their successful resolution, the intended audience, ranging upward from 12 or 13 (and including parents and other interested adults), will gain the insights and understandings necessary to cope with similar tensions and problems which may exist in their own schools. Teams of high school students whose make-up is representative of their communities have been established at 21 sites in 14 locales around the country where desegregation of the schools has taken or is taking place. It is from the ideas, approaches, attitudes, insights and suggestions generated by these high schoolers that the content of the series will emerge. Heavy stress will be given to actuality film, and to role played activity. [Produced under a $1,772,791 award to WTTW (TV), 5400 N. St. Louis Avenue, Chicago, Illinois 60625. Phone (312) 583-5000.]

""The Sixth Period" (tentative title)

A series of 26 half-hour dramatic programs set in a high school language arts class intended for youngsters of 12 and above. The goal of the series is to sensitize high school age students to the importance of being able to write and speak "correctly" as "correctness" is defined by various work, school, social, and other life situations. Some 'heavy' drama, offset by comic relief, will characterize the series. [Produced under a $1,800,000 award to WNET (TV), 356 West 58th Street, New York, New York 10019. Phone (212) 262-8367.]

"Que Pasa, U.S.A.?"

A series of 20 half-hour Spanish-English 'sitcoms' for youngsters 12 and above, focusing on the generation gap in a typical Cuban-American family. [Produced under two joint awards totaling $500,000 to Community Action and Research, and to WPBT (TV). Address inquiries to Cuban-American TV series, Suite 207, 3737 SW 8th Street, Miami, Florida 33134. Phone (305) 448-0013.]

"The First Americans" (tentative title)

This series of 7 half-hour programs for viewers 12 years old and above, will concern itself with the history and culture of the Oneida and the Menominee tribes of Northern Wisconsin. [Produced under a $250,000 award to Northeast Wisconsin In-School Telecommunications, 1110 IS Building, Green Bay, Wisconsin 54302. Phone (414) 465-2599.]

"La Esquina" ("The Corner")

A series of 10 dramatic half-hour Spanish-English bilingual programs intended for adolescent youngsters. Action will take place in a soda shop frequented by the Chicano and Anglo teenagers around whose problems the series revolves. [Produced under a $249,999 award to Southwest Educational Development Laboratory, 211 East 7 Street, Austin, Texas 78701. Phone (512) 476-6861.]

"Mundo Real"

Shows 21 through 28 of the series described above. [Produced under a $250,000 award to Connecticut Public Television, 24 Summit Street, Hartford, Connecticut 06106. Phone (203) 278-5310.]

"Villa Alegre"

Shows 131 through 195 of the series described above. [Produced under a $3,165,870 award to Bicultural Children's Television, Inc., 2150 Valdez, Oakland, California 94612. Phone (415) 839-5678.]

"Rebop"

Shows 27 through 52 of the series described above. Each program here will consist of two rather than three 'portraits.' Stress in these will be on the interaction which take place when children from one racial or ethnic group encounter or participate in subcultures different from their own. [Produced under a $2,000,000 award to WGBH-TV, 125 Western Avenue, Boston, Massachusetts 02134. Phone (617) 492-2777.]

"Vegetable Soup"

Programs 40 through 78 of the series described above. (Unlike programs 1 through 38, these shows will be available only in the half-hour version.) [Produced under a $2,300,000 award to the Bureau of Mass Communication, New York State Department of Education, Albany, New York 12234. Phone (518) 474-2241.]

"Infinity Factory"

Shows 53 through 82 of the series described above. [Produced by the Project One Group, under a $1,660,000 award to Education Development Center, Inc., 55 Chapel Street, Newton, Massachusetts 02160. Phone (617) 959-7100.]

"Amerasia" (tentative title)

A 6 half-hour film series of stories from the long ignored history of Asian-Americans for youngsters ages 8 through 12. The roles played by Chinese, Japanese, Koreans, Filipinos, Hawaiians and Vietnamese in America's growth and development will be revealed through historical reenactment based on both history and the personal diaries, letters, and other memorabilia of Asian-Americans. [Produced under a $250,000 award to Educational Film Center, Inc., Box 1444, North Springfield, Virginia 22151. Phone (703) 321-9410.]

Native Americans of Southern New England

An as yet untitled series of 8 half-hour programs, each of which will contain two 10-minute films focusing on the Indians living in the cities and countryside of Massachusetts, Rhode Island, and Connecticut. [Produced under a $250,000 award to the Massachusetts Executive Committee for ETV, 54 Rindge Street, Cambridge, Massachusetts 02140. Phone (617) 876-9800.]

Appendix 7

NATIONAL ADVISORY COUNCIL ON EQUALITY OF EDUCATIONAL OPPORTUNITY

Report for Calendar Year 1976 *

March 31, 1977

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* Due to space limitations, only the recommendations made by the National Advisory Council in this report are reprinted here. The full report is retained in the Subcommittee files.

Emergency School Aid Fiscal Year 1976 Summary, ESAA and CRA-IV

Activity	Total Application	Total Awards	Amount Requested	Amount Obligation	Average Awards	States Served	% of Demand Funded
ESAA							
Special Projects Bilingual Education	82	32	$ 28,765,134	$ 9,148,450*	285,889	8	31.8%
Educational Television	50	7	45,569,193	8,465,870**	1,209,410	7	18.5%
Special Programs/Projects (Discretionary)	109	75	98,961,327	36,151,990	482,027	40	36.5%
State Apportionment Pilot Projects	251	179	82,048,942	31,920,088***	178,325	36	38.9%
Special Programs/Projects (NPO's)	401	215	59,202,467	17,197,342	79,988	45	29.0%
General Grants to LEAs (Basic Grants)	589	468	298,611,080	140,032,618****	299,215	47	46.9%
Evaluation	N/A	2	N/A	2,150,000	1,075,000	N/A	N/A
Subtotal	1,482	978	613,158,143	245,066,358	250,579	N/A	40%
CRA-IV							
GACs-Type A	27	27	11,100,368	11,100,368	411,125	1 /	100%
GACs-Type B	9	9	3,750,000	3,750,000	416,667	1 /	100%
SEAs-Type A	44	44	8,494,956	5,445,844	123,769	44	64.1%
SEAs-Type B	17	17	2,395,993	1,325,208	77,953	17	55.5%
Institutes-Racial Discrimination	70	16	12,145,763	2,145,548	134,097	14	17.7%
Institutes-Sex Discrimination	20	11	3,214,714	1,109,452	100,859	9	34.5%
Grants to LEAs	102	46	7,534,850	2,148,580	46,708	24	28.5%
Subtotal	289	170	48,636,644	27,025,000	158,971	N/A	55.6%
Grant Total	1,771	1,148	661,794,787	272,209,358	237,013	N/A	---

* Includes $548,450 Transferred to Bilingual Grants Program from Discretionary Grant Program.

** Includes $2,015,870 Transferred to ETV Contracts from Discretionary Grant Program.

*** Includes $83,826 Transferred to Pilot Grant Program from Discretionary Grant Program.

**** Includes $4,083,095 Transferred to fund Regional Basic Grants (Court Orders) from Discretionary Grant Program

1 / All 50 states plus Puerto Rico, Virgin Islands, Trust Territories and American Samoa.

Division of Program Development
Date: October 12, 1976

RECOMMENDATIONS
CALENDAR YEAR 1976

A) LEGISLATIVE:

RECOMMENDATION A. 1. State education agencies should be given the role of operating the ESAA basic, pilot, and NPO programs under a state allocation formula and under administrative procedures similar to that now in effect for Title I of the Elementary and Secondary Education Act. The federal government should require a submittal by the state education department of a state equality of education operational plan which would have to be approved by USOE, and the formation of a state EEO advisory council whose members would be appointed by either the governor or the chief state school officer. Civil Rights clearances would still be required from the U.S. Office for Civil Rights. (see Recommendation B. 10. - 1975)

NACEEO believes in the traditional state and local control over education. Under the present language of P.L. 92-318, Title VII, state departments of education are merely given an advisory role to both the local school district and to the U.S. Office of Education. Primary responsibility for the state formula ESAA program is handled exclusively through USOE regional offices. Direct contact between USOE regional offices and local educational agencies is the hallmark of this program.

Along with the growing concern over the rapid expansion of the federal government and its indirect control over educational institutions, NACEEO feels that administrative overhead costs could be reduced by state operation of the ESAA state allocated programs. More importantly, it is our judgment that state departments of education must be held responsible for providing statewide integrated education. State departments of education should not be substantially funded under other USOE federal programs, and then claimed to be untrustworthy when it comes to overseeing civil rights types of educational programs. A violation of Civil Rights statutes jeopardizes all federal aid to education. OCR could maintain jurisdiction over local educational agencies as well as federally funded state units with regard to Civil Rights compliance under this state operational system.

The requirement for states to present an overall equal educational opportunity plan would provide stronger support for desegregation and increased coordination with other state planned educational programs, such as Title I, Vocational Education, and Handicapped. Administrative funds to support state equal educational opportunity units would be needed under this suggested program. Federal regional offices could maintain a small staff of program officers who could be held responsible for the establishment of effective liaison with respective state department personnel and to coordinate the informational dissemination effort. Such a comprehensive equal educational state plan and the establishment of state equal educational opportunity advisory councils would provide additional benefits to the state, even after federal funding participation ends. Mobilization of state educational consultants, combined with the added thrust of an active statewide citizens EEO council, could be a powerful incentive for peaceful settlement of school desegregation issues, thereby avoiding the disruption which has occured in some states.

RECOMMENDATION A. 2a. AND 2b. 2a) The ESAA program should provide for multiple year funding for school districts under the approved state EEO plan. Specific yearly program accomplishments should be required and monitored by state EEO personnel. A federal educational office should conduct yearly evaluations of state EEO performance, while the Office for Civil Rights (HEW) would retain responsibility for Civil Rights compliance. 2b) The extension of multiple year project grants beyond the first project year award should provide for a progressive cost sharing provision. Such a cost sharing provision would provide for a 20% contribution by the local institution or NPO of the total project cost beginning at the fifth year, a 40% contribution during the sixth year, a 60% contribution for the seventh year, and an 80% contribution during the eighth year of receipt of federal funds under ESAA. No grantee would be eligible to receive ESAA funds beyond eight years of program operation.

A. 2a.) One factor of great concern felt by consumers of the ESAA programs is the lack of time between program implementation and proposal submittal. Although recipients of ESAA grants favored the "forward funding" aspect of ESAA, they felt that the present proposal cycle arrangement was not beneficial to either party, as project directors do not have adequate time to evaluate their ESAA program nor USOE to monitor them before it is time to submit new proposals for the next FY year funding. The current "fiscal year" proposal solicitation time lines also produce additional manpower difficulties for the entire USOE regional office personnel, as well as the grantee. Time lines for the fiscal year project implementation phase, USOE monitoring requirements, and the need to give technical assistance to new applicants for an upcoming fiscal year, all fall within a compressed period of 4 months. To make matters worse, with the fiscal year ending on September 30th and beginning October 1st, additional complexities are emerging, particularly as it applies to federal, state, and local staff availability.

Multiple year funding is one form of resolution of this problem. Under a state developed equal educational opportunity plan, a local school district could submit proposals for a "project" year award. Project year awards could be operationally set for two years rather than one fiscal year's duration. As in other programs utilizing the project year concept, safeguards could be built into the process.

A cursory review of the past three years of funding under ESAA reveals that a high degree of repetitiveness does already exist in the granting of awards. Under the multiple year system proposed here, new LEA's could be funded from the annual appropriations authorized by Congress.

A. 2b.) If the new multiple year project concept is adopted, there should be a progressive local commitment provision written into the Act. If ESAA is not to be considered an entitlement program, local educational agencies must finally accept the burden of the additional cost of programs that are needed and sought to overcome minority group isolation or the effects of past discrimination. It is also reasonable to assume that if the Emergency School Aid Act is to be considered successful, the selection of educational strategies must be employed which do the most toward accomplishing the immediate goals. Under this plan, Congress would be able to foresee the fiscal requirements for the program in various states, affording them the opportunity to make adjustments in the funding ratios. Naturally, an "extenuating circumstances" provision should be written into the regulations whereby the Secretary could provide for additional resources beyond the eighth year if so warranted. The burden already assumed by local agencies is apparent, but the proper utilization of highly specific educational and community activities, under ESAA and other federal sources such as Title I, Right to Read, Bilingual, Ethnic Heritage, Career Education, Vocational Education, etc., should provide the nucleus for resolution of certain conditions which have heretofore been a hindrance to the system. Recent court decisions concerning state formulas for determining educational equity also lead us to believe that it is not unreasonable to consider this type of approach.

RECOMMENDATION A. 3. The separate 8% set-aside state allocation for nonprofit organizations should be deleted and replaced by a provision allowing such funds to be reprogrammed under the basic and pilot set-asides. Language should also be introduced under the authorized activities encouraging school districts to utilize NPO's in providing specific community/school type services under a contractual arrangement. (see Recommendation B. 11. - 1975)

The utilization of community groups to assist school districts in the implementation of desegregation or racial isolation reduction plans is a worthwhile strategy, particularly in the early stages of physical desegregation when the communities are polarized. Organizations of citizens have accomplished much toward the prevention of severe disturbance and violence which could erupt during such a process.

It appears, however, that many nonprofit groups funded under the ESAA program are concentrating their activities in the area of educational remediation. Regardless of the immediate beneficial effects of NPO remediation programs, the long term effect is questionable in terms of cost effectiveness. Particularly in metropolitan areas, the administrative cost of utilizing NPO's in relation to the number of students/adults served seems prohibitive. It is also apparent that if federal funds were not available, the NPO programs would not be incorporated within the framework of tax levy supported programs.

Many of the school administrators interviewed, even those who highly favored NPO's, are inclined to support an administrative change whereby NPO's would not have separate autonomy and funding which they now do under the law. A subcontract relationship between school and NPO might prove to be more acceptable. Most difficulty stems from a lack of real knowledge as to what the nonprofit groups were actually doing for the school district, although ESAA procedures provide for initial review by the LEA of the NPO proposal as well as representation in the NPO's advisory committee. The lack of veto power by eligible districts over NPO activity remains a sensitive issue.

School districts have also been disturbed by the fact that several nonprofit groups can each utilize the district's eligibility standing, statistics, personnel, etc., in their individual competitive bid for ESAA funds. Having a multiplicity of competing nonprofit organizations involved at various levels of the system produces additional burdens on the administrative structure and complicates coordination efforts. This situation has also led to the high administrative costs attributed to NPO operation mentioned earlier, as the consortium idea has not gained the favor anticipated.

For these reasons, it appears that a different arrangement may provide for more efficient utilization of the present set-aside funds. Chances are that a more coordinated, less costly program would result with a genuine carryover possibility if the present diversified activities authorized for nonprofit groups were narrowed in scope to noneducational services and encompassed under the administrative management of the local school system, in light of the primary role of the school in the educative process. In this way we would expect to cut the administrative cost of the NPO program, eliminate the need for a separate advisory committee, while providing better incentive for program design and monitoring. In short, we would expect an increased accountability for NPO activity, while eliminating duplicity and maximizing the utility of NPO service to the school/community.

RECOMMENDATION A. 4. The "unusually promising and innovative" requirement that now exists under the language of the pilot programs should be spelled out much more fully, or deleted in the act and in the regulations.

Review of the educational proposals funded under the "pilot" criteria of ESAA fails to substantiate an "unusually promising" or "innovative" component as being of critical value.

The focus of the pilot program, as legislatively structured, is aimed at providing compensatory educational programs to eligible school districts serving a large number of minority group students. The criteria to be utilized in judging pilot programs under the Act and regulations do not sufficiently provide explicit descriptions of what constitutes "unusually promising", or what is to be considered "innovative". Review of USOE/EEO program guides and panel review critieria for pilot programs also fails to adequately differentiate the "unusually promising and innovative" aspects for this program. In fact, USOE, in its criteria description, goes beyond the language of the Act by implying pilot programs are to be small-scale experimentations. If this were valid, USOE violates its own interpretations by funding and refunding the same projects each year without assessing the experimental nature of the program, nor requiring true experimental designs and methodology to be utilized. It appears that USOE interprets the law to imply that only a "replication" phenomena is critical, and, therefore, additional points are awarded in the scoring for a project's ability to keep a journal of its activities. Yet, review panelists do not, as a matter of routine, have the benefits of this replication feature available to them when the pilot project is again submitted, nor do they have all the USOE monitoring reports.

> RECOMMENDATION A. 5. If Title IV of the Civil Rights Act is to continue, it is recommended that a technical amendment to this law provide that the National Advisory Council on Equality of Educational Opportunity, established pursuant to P.L. 92-318, have advisory oversight responsibility regarding the operation and administration of the program authorized under Civil Rights Act of 1964, Title IV.

During the three years of its existence, NACEEO has been concerned with the relationship of the Title IV CRA program and the Emergency School Aid Act. Although we realize that the program is primarily aimed at the adult educational community, the inextricable connection with ESAA clientele or prospective clientele is obvious and unavoidable. For the most part, we have found that, unlike the ESAA program, Title IV is generally less answerable and harder to evaluate in terms of performance in accomplishing the lofty goals stated in the Act.

There appears to be a significant measure of duplication between the General Assistance Center program and the State units, with each offering the same or similar services to the same target groups. The relationship between the Title IV sponsored programs and ESAA clientele were positive, for the most part, but never appeared to be of critical value or necessity to the applicant ESAA agent. In fact, many of the activities which the ESAA applicants were requesting in their proposals were identical to that which were being offered by the federally funded state unit or the general assistance center. Especially in the area of teacher training and curriculum development, the picture becomes even more impervious to recent studies concerning teacher training. Unlike ESAA applicants, the required input by citizen advisory councils, public meetings, and required national evaluations are all missing from the CRA program. The feature of "to serve only when called" contained within the provisions of the Title IV regulations, we believe, also renders the program much less effective.

The newer authorized features of CRA IV dealing with national origin (language) and sex discrimination issues may be where the major directional thrust for this program should lie in the coming year.

Additionally, the same USOE program unit presently administers both ESAA and CRA IV programs and it is difficult for NACEEO to fully evaluate the unit's overall effectiveness with the ESAA program without concerning ourselves with the companion statute, administrative demands, and operational effectiveness. It should be noted also that Congress has seen fit to incorporate both programs under the broad area of Equal Educational Opportunity during its appropriation reviews.

Therefore, because of the present ESAA mandate and ESAA's close connection with the purposes and programs of CRA IV, we feel that NACEEO, which presently is deeply involved with the issue of school desegregation and equality of educational opportunity, should be given advisory oversight responsibility for this program.

B) ADMINISTRATIVE RECOMMENDATIONS:

RECOMMENDATION B. 1. The Commissioner of Education should adhere to the predetermined dates established for receipt and processing of ESAA applications with more uniformity than has been the case for the past 3 years.

In 1974, 1975, and 1976, the U.S. Commissioner administratively extended the deadline for receipt of ESAA proposals beyond that which was originally published in the Federal Register. It appears that every year one or more clients are unable to meet the deadline date due to what USOE classifies as "mitigating circumstances". Although one can understand normal delays caused by planes, trains, or taxi cab schedules, we feel that the government has, in every year except for 1975, provided sufficient lead time for the development and submittal of ESAA proposals. The repetitiveness of a large number of grantees seeking funds from year to year also speaks to the question that there is sufficient knowledge among the applicants of the time lines involved in the grant process. The specifics as to whether the late offenders were more often school districts or nonprofit groups is difficult to ascertain. We were informed at one time that the problem lay at the regional offices. That is, officials at respective locations did not adhere to uniform procedures regarding the closing times, or that Federal Register notices were not specific as to what constituted lateness.

Regardless of the past reasons for such action, NACEEO feels that after three years USOE should have stabilized its procedures to prevent such extensions being granted as routinely as they have been. Severe extenuating circumstances should be the only tolerated reason for the acceptance of a late proposal and it should be accepted without the necessity of extending the deadline for the whole universe of ESAA applicants or extending it for one month or more, as has been the practice.

RECOMMENDATION B. 2. USOE should develop a policy outlining the specific activities that can be provided by nonprofit organizations especially if they are to continue under the present legislative 8% set-aside arrangement. These activities should be limited in scope and show a cost effective relationship as they apply to the administrative overhead of operating such programs.

NACEEO feels that the 8% set-aside provision for the Nonprofit Organizations (NPO) program should be eliminated in favor of a subcontractual arrangement with eligible school districts, even though we are aware of Congressional concerns for NPO independence.

Therefore, if the program remains the same, NACEEO strongly recommends, either through administrative leadership or legislative amendment, that the activities set forth in the regulations be revised. NPO proposals should be concerned with community relations activities and not with the educational remediation of the school age population in the school district whose plan they are supporting.

USOE should develop a new administrative posture concerning the growing proliferation of NPO groups applying for funds to help implement the desegregation plans of one school district. A situation could exist whereby a school district, which merely reduced the percentage of minority group children attending one, two, or even three out of possibly twelve schools from a high of 80% to 75%, could hypothetically have four NPO organizations applying for funds aimed at helping the school district with its plan. The concept we are trying to present becomes somewhat clearer if you add to our hypothetical situation that the district took such action to reduce its minority group isolation somewhere in 1970 and has received funds under CRA IV, ESAP, and ESAA since that time.

San Francisco School District, which admittedly is quite large in population but not in geographical area, has at least seven active NPO's serving it. To further illustrate, let us point out that over the past ten years, 1965 to

1975, San Francisco has received as a result of the Emergency School Aid Act and Title IV of the Civil Rights Act nearly $12 million. It was the recipient of seven ESAA awards alone. Other local education agencies in other areas of the country show a similar pattern. In fact, during the same time span, over 70 local educational agencies have received more than $2 million in grant aid and 19 have received well over $5 million. This does not take into account the awards made as of October, 1976, for school year 1976-1977.

USOE definitely needs to undertake a systematic review of the activities being performed by NPO's universally, and attempt to ascertain the effectiveness of each category of activity. As it now stands, nonprofit organizations can utilize activities ranging from pre-school programs to adult basic education programs. We are concerned that the activities undertaken have a direct cause/effect relationship with the stated desegregation plan, and not be utilized for purely educational enrichment purposes.

RECOMMENDATION B. 3. USOE/EEO should undertake the development and publication of a new set of ESAA program manuals that would be disseminated to both ESAA and prospective ESAA clients. We recommend such guideline manuals be produced for each specific program authorized under the Emergency School Aid Act.

From what information was available to this Council, it appears that USOE has not substantially revised its original 1973 ESAA program manuals, nor devised new ones covering some of the discretionary special set-aside programs (art, math, student concerns, and other special programs). Although there appears to exist administrative manuals for all components of the ESAA program, it seems to this Council that they were generally written for federal program officers for their general proposal processing and monitoring activities.

NACEEO feels that the "Comprehensive Manual for Local Educational Agencies", revised September, 1973, and the "Manual for Nonprofit Organization Grant Applicants", revised April, 1975, along with the recent "Guidelines for ESAA-TV Programs", February, 1976, are a good beginning. However, in the light of three full funding years of operation, NACEEO believes there is a need to expand on the information and update the manuals due to various changes in the legislation and, more importantly, due to what has been learned about the ESAA program. We would envision manuals not only helping applicants with the proposal development by providing forms completion type of information, but providing additional data and leads which have come about through the evaluation studies performed on the program. Sections dealing with postaward responsibility, especially as it pertains to administrative regulations applicable to all federal programs, travel, and other contractual requirements that would aid the grantee in management of the program would be helpful.

It would also seem a worthwhile idea to include in these manuals an organizational flow chart designed primarily for use by nonfederal organizations. The chart should outline the various levels of responsibility for the program beginning at the headquarters level to the regional offices with special emphasis on the relationship between the Office for Civil Rights and the Office of Education at these levels. Site visitations to various projects seem to indicate that this more comprehensive program guideline manual is needed by the consumers of the ESAA program and would improve their overall knowledge of what is expected of them and what they can expect from the USOE.

> RECOMMENDATION B. 4. The Office of Education should experiment with the usefulness of a two-part application proposal package. Local education agencies would submit their statistical eligibility and assurance data as a separate section from the actual educational proposal for which they are seeking funds. This would prevent a costly duplication of material in event that said client would have to resubmit their educational proposal.

Discussion throughout this year with USOE personnel, as well as school officials, leads NACEEO to believe that steps should be taken to further standardize the proposal application process.

It does not appear that USOE has any firm uniform procedure throughout the ten regional offices regarding the format or the design of the proposals. We have seen an array of proposals ranging from bound copies with photographs, to two-volume loose leaf books, to stapled pages. Although there does not appear to be any legal grounds for requiring more uniformity in proposal structure, we feel that it would be beneficial, not only to USOE personnel but to the prospective grantees. Paper size, format of presentation, and binding instructions could improve the general readability of proposals and speed up the entire process.

We are also suggesting that two separate sections be submitted. The first section would be the application data containing the required forms, assurances, statistical information, etc., in a precise order. The second section would contain the actual program narrative with an appendix to contain all the supporting data. In so doing, we feel that with this uniform structure, clients required to resubmit due to educational quality criteria need only to resubmit a revised educational proposal for the funds they are seeking and not be concerned with reproducing statistical data, application forms (except for a new commitment by advisory council and superintendent), nor even the appendix with the educational backup material unless warranted by the panel comments.

RECOMMENDATION B. 5. Severe changes in a panel rated education proposal due to budget negotiations with the Office of Education should be submitted to an internal review panel prior to the issuance of the final award document by USOE. This would insure that said proposal would have attained the score attributed to it by the original nonfederal panel had such proposal been presented in the negotiated form.

In this highly competitive program where a .5 difference could decide between being funded or not, NACEFO suggests additional safeguards be initiated in the proposal process.

Review of a small sample of ESAA grants, combined with discussions with local ESAA grantees, suggests a need to investigate the possibility that proposals which undergo significant programmatic changes either in scope or magnitude of deliverable services be reexamined to ascertain whether or not the negotiated program proposal would have scored as high in its present changed scope or magnitude of program elements as the originally reviewed proposal.

We would suggest that USOE consider establishing an internal review panel at each regional office which would be empowered to study each revised proposal prior to final recommendations to the Commissioner for approval in order to determine whether or not the proposal must be resubmitted for consideration and scoring by a nonfederal panel.

> RECOMMENDATION B. 6. Nonpublic schools that are eligible to receive services should be required to submit the necessary statistical and assurance data along with an educational proposal to the public school district from whom they expect to receive educational services provided for under the ESAA funding. Review panelists should be given the opportunity to evaluate the nonpublic schools' request for services as a companion proposal to the school district proposal, regardless of the fact that no points either for or against the public school district would result from such a review.

The Congressional mandate providing for allowable educational services to be given through ESAA eligible school districts is quite clear. Discussion with ESAA school personnel and former ESAA review panelists has convinced NACEEO to suggest the possibility of a new administrative format regarding the nonpublic school participation in the program. As it now stands, the service required by eligible nonpublic schools is somehow informally transmitted to the local public school that is developing the ESAA proposal. According to some sources, there are times when the public school, without consultation, merely estimates the needs of the nonpublic school's staff and student body or mathematically assigns a certain percentage figure to be added to their developing budget to cover the cost of any service that the nonpublic school might require.

These methods do not appear to be fully meeting the intent of the Act. To illustrate further, there does not appear to be any formal procedure for addressing the specific need requirements of nonpublic schools during the budget negotiation process. Usually, it appears that a percentage formula is applied by the public school district after the finalization of its award from USOE.

NACEEO feels that it would be beneficial to understand the needs and educational funding requirements of the nonpublic school as a separate entity. There may be instances where the services to the nonpublic school would not need to be adjusted, although the panel requires extensive reappraisal of the public school proposal and/or budget.

> RECOMMENDATION B. 7. Monitoring reports by federal and/or state ESAA program officers on all ESAA programs should be made a required part of the proposal review process. This could be done by several means such as a scoring system devised by headquarters and utilized by field personnel with the score being transmitted to the panel or somehow utilized in the final statistical calculations, or by providing the panelists with the formal monitoring reports by program officers. Equitable scoring arrangements should be developed by USOE as new applicants competing for funds would lack such monitoring scores.

A serious concern of NACEEO has been the proper utilization of the scarce ESAA funds. We, therefore, feel quite strongly about the need for monitoring, evaluation, and accountability. The present USOE proposal review processing does not adequately take into account these facets of good management. To our knowledge, there is no way for an ESAA nonfederal panel review group to adequately and routinely ascertain the performance of a school district, nonprofit organization, or state department of education as it pertains to past ESAA program awards. Hypothetically, it appears that a former ESAA grantee with a poor administrative and program accomplishment record for one fiscal year could easily be funded under the forward funding feature of ESAA for a new fiscal year. Even agencies involved in significant audit exceptions or failure to comply with USOE administrative regulations could receive an award.

More important perhaps than even the administrative features is the lack of standardized evaluation criteria. The review panelists are not presented with some form of objective appraisal of projects they are reviewing. Perhaps the system of fiscal year to year funding prevents the efficacious use of adequate monitoring data or it may be within the nature of the competition that the use of such data is prohibited.

Under the "project year" program, we do not feel that scoring equity would be an issue. Even under the present arrangement, however, NACEEO feels that USOE has not taken any positive action to make educational accountability a meaningful factor in the grant award process.

RECOMMENDATION B. 8. ESAA application, receipt, and processing procedures should be reviewed with the intention of providing a different form of competitive levels. Under a state plan framework, the in-state competition for funding could be on the basis of:

A) Nature of Eligibility:
    1) Court ordered desegregation
    2) Voluntary elimination or reduction of racial isolation
B) Size of District:
    1) Large
    2) Medium
    3) Small
C) Date of Final Phase of Plan:
    1) Future years
    2) Within past 8 years
    3) Within the last 10 - 15 years

NACEEO shares the concern expressed by members of the educational community that the present trends indicate there will be more ESAA applicants than funds available. Many individuals have expressed anxiety over the "quantitative" scoring criteria utilized to ascertain "needs". Although the scoring system appears adjusted to take into account small and large school populations and degree of desegregation and/or racial isolation, large urban districts with fairly high percentages or number of minority students do have the numerical score advantage over smaller school districts. A similar phenomena exists with regard to nonprofit groups as they utilize the statistics (enrollment figures and reduction counts) of the school district they are supporting.

Analysis of the grant awards from 1965 through 1975 as it pertains to ESAP and ESAA suggests that the most successful districts in receiving grants year after year under these programs seem to be large urban school systems. Again, it is interesting to note that the majority of school districts receiving well over $2 million during the same course of time were large urban school districts. Although this may not be in itself surprising, it does suggest that these applicants do have a decided advantage when it comes to tabulation of the total score. The shear weight of numbers as an indication of need may be justifiable. However, even with a lower educational score (although within the established minimum range), a larger district might stand a better chance of being funded than a smaller district with a much better educational quality proposal.

RECOMMENDATION B. 9. Regional offices throughout the country should routinely receive complete samples of all programs currently produced under the ESAA educational television set-aside. Furthermore, USOE regional offices should be regularly supplied with complete program information concerning all applicants for national ESAA funding as well as complete program information throughout the project year on all nationally administered programs within their jurisdictional boundaries.

NACEEO members during their site visits did not feel that regional EEO personnel were sufficiently knowledgeable of the special programs and projects currently operated from national headquarters. This was particularly true as it applies to Student Special Concerns, Arts, and the availability and content of ESAA TV programs. In this last regard, some of the federal personnel did have printouts from the ETV staff concerning to some degree the program content, but they did not appear to know the mechanism for securing same nor could they personally relate to the programs. This lack of knowledge was even more pervasive among state EEO units, local educational agencies, and among nonprofit groups.

We, therefore, feel that a more concentrated effort is needed by USOE to publicize the content availability of programs produced under ETV. With regard to Student Special Concerns and the Arts program, although these do not have the tangible products so clearly available perhaps as the ETV program, whatever information is available pertaining to their results or "model" features should be given wider distribution in the field.

It is evident that the regional offices are not being properly utilized when it comes to the special projects area under ESAA. Program officers should be better prepared to offer technical assistance and, more importantly, disseminate up-to-date information to all regional clientele when it comes to the entire ESAA program. This is not the case. In fact, we believe that the mandates contained in P.L. 93-380 which apply to delegating to regional offices the technical assistance and information dissemination role are added reasons for revising the present lax communication linkage between USOE headquarters and the regions.

Samples of each educational television production produced under ESAA should be housed at each regional office. Frequent presentations of this material should be undertaken by USOE regional personnel at ESAA informational meetings, training seminars, etc. Such material should be available throughout the year on a loan basis to ESAA clients and other school personnel for their utilization.

Combined site reviews by USOE headquarters and regional personnel should become a requirement of the monitoring activity for the Student Special Concerns, Math, and Arts programs.

SPECIAL PROJECTS:

C) ETV:

RECOMMENDATION C. 1. The U.S. Office of Education should concentrate on developing means to disseminate and promote the programs that are being funded under the ESAA TV portion of the Act. The Commissioner should consider setting aside funds under his discretionary authority for the purpose of developing a national dissemination and promotion campaign for the various ETV programs, or by administratively allowing for more financial support in the dissemination category in individual ETV proposals.

RECOMMENDATION C. 2. The U.S. Office of Education should intensify its review of equipment cost as it relates to the ETV productions, thereby avoiding duplication of expensive equipment being purchased under various federal and nonprofit programs. Purchase of expensive camera chains or related capital equipment should be authorized only under extreme justification.

RECOMMENDATION C. 3. The Commissioner of Education should insure that the regional offices of said agency are equipped to provide effective technical assistance and dissemination activity for this program. The primary focus at the regional level could be one of helping school districts gear their systems to employ the programs that will be produced by the contracts awarded at the national office.

RECOMMENDATION C. 4. A further study of the effectiveness of the ESAA ETV program and the accomplishment of the intended purpose, as set forth in the statute, should be undertaken on a national scale.

D) SPECIAL MATH:

The special math programs appear to be so specialized that there is a concern that the long-range effects of such isolation between this program and the regular school program could be counterproductive. NACEEO, therefore, recommends:

RECOMMENDATION D. 1. That there be established a requirement specifying a teacher training component as a counterpart to any specialized math program. This teacher training should be geared toward the utilization of effective techniques with the faculty already at the respective schools within the program.

ReECOMMENDATION D. 2. In order to prevent a self-perpetuating type of special projects behavior from occuring in particular school districts, there should be a requirement through which the school district submits a plan specifying how it intends to incorporate the special math techniques within its present operational structure as financed through its own funding.

RECOMMENDATION D. 3. An independent national evaluation of the effects of the math program should be undertaken in order to ascertain the cost effectiveness in relationship to other programs funded under the Emergency School Aid Act.

E) SPECIAL ARTS:

The overall impression of NACEEO in regard to this program as it is presently in operation is that there is a growing alienation between the members of the local school district and the local sponsored grantee. NACEEO, therefore, recommends:

Recommendation E.1.
The Commissioner of Education should consider a formula in which the school districts that are participating in the special arts projects would submit a plan specifying a phasing of the project's activity within the school budget over a period of time.

RECOMMENDATION E. 2. An evaluation of the cost effectiveness and the impact of the special arts projects should be ascertained as soon as possible.

F) SPECIAL STUDENT CONCERNS:

The need for investigating and resolving conflict between faculty and students is always a worthwhile endeavor. Such need is heightened under a process of desegregation and takes on much more significance. Therefore, NACEEO feels that the following recommendations be given careful consideration.

RECOMMENDATION F. 1. The Commissioner of Education should expand this particular special discretionary program.

RECOMMENDATION F. 2. The U.S. Office of Education should hold a national two-day conference based on the issues of special student concerns under a desegregated school system no later than June 30, 1977.

RECOMMENDATION F. 3. The results of the projects that are presently under ESAA funding and the information developed as a result of the national conference should be made available to interested agencies, school districts, and individuals throughout the country as soon as possible.

G) NACEEO further recommends:

RECOMMENDATION G. 1. The Commissioner of Education should allow school officials responsible for the ESAA grant project submitted to the Office of Education for evaluation to be present during the panel evaluation of their application for funds. This departure from the normal operation of the Office of Education in reviewing the ESAA program is justified by the geographical and political uniqueness of the areas such as Puerto Rico, Guam, Samoa, and the Virgin Islands.

RECOMMENDATION G. 2. The Commissioner of Education should change Section 185.94-1(d) of the regulations which restricts the grantees or prospective grantees under this program to the provisions of Sections 185.12(b), (c), and (d). Again, due to the social, economic, political, and geophysical consideration, the restricting language should be deleted and the applicants allowed to seek more financial aid for planning, minor remodeling, and alteration of facilities than that which is allowed under the 10% ceiling presently in the regulations under Section 185.12. (see Recommendation B. 5. - 1975)

H) With regard to Special Projects overall, NACEEO recommends:

RECOMMENDATION H. 1. The transitional features of special projects should be emphasized so that the experimental and/or demonstration aspect of the projects will be highlighted and districts will not begin to feel that these projects have become a way of life for them.

RECOMMENDATION H. 2. That special projects, excluding ETV, be for limited duration so that they do not become self-perpetuating.

RECOMMENDATION H. 3. That there is a need for more evaluative activity to be undertaken, especially with regard to the cost effectiveness of the various programs that are authorized to be funded under the umbrella of the Emergency School Aid Act.

RECOMMENDATION H. 4. The regional office personnel of the Office of Education should be provided with specialized training in order to enable them to give technical assistance in the area of all the various programs under the Special Projects portion of the Emergency School Aid Act. Included also would be an active role in information dissemination of the products currently available under the Emergency School Aid Program, such as the educational television products.

RECOMMENDATION H. 5. The Commissioner of Education should reappraise on a yearly basis all of the discretionary programs that have been authorized before automatically continuing the programs for another year.

SUMMARY OF 1976 NACEEO RECOMMENDATIONS

tate education agencies should be given the role of operating the ESAA basic, ilot, and NPO programs under a state allocation formula and under administra- ive procedures similar to that now in effect for Title I of the Elementary nd Secondary Education Act. The federal government should require a submittal y the state education department of a state equality of education operational plan which would have to be approved by USOE, and the formation of a state EEO advisory council whose members would be appointed by either the governor or the chief state school officer. Civil Rights clearances would still be required from the U.S. Office for Civil Rights.

a) The ESAA program should provide for multiple year funding for school districts under the approved state EEO plan. Specific yearly program accomplishments should be required and monitored by state EEO personnel. A federal educational office should conduct yearly evaluations of state EEO performance, while the Office for Civil Rights (HEW) would retain responsibility for Civil Rights compliance. b) The extension of multiple year project grants beyond the first project year award should provide for a progressive cost sharing provision. Such a cost sharing provision would provide for a 20% contribution by the local institution or NPO of the total project cost beginning at the fifth year, a 40% contribution during the sixth year, a 60% contribution for the seventh year, and an 80% contribution during the eighth year of receipt of federal funds under ESAA. No grantee would be eligible to receive ESAA funds beyond eight years of program operation.

The separate 8% set-aside state allocation for nonprofit organizations should be deleted and replaced by a provision allowing such funds to be reprogrammed under the basic and pilot set-asides. Language should also be introduced under the authorized activities encouraging school districts to utilize NPO's in providing specific community/school type services under a contractual arrangement.

The "unusually promising and innovative" requirement that now exists under the language of the pilot programs should be spelled out much more fully, or deleted in the Act and in the regulations.

If Title IV of the Civil Rights Act is to continue, it is recommended that a technical amendment to this law provide that the National Advisory Council on Equality of Educational Opportunity, established pursuant to P.L. 92-318, have advisory oversight responsibility regarding the operation and administration of the program authorized under Civil Rights Act of 1964, Title IV.

The Commissioner of Education should adhere to the predetermined dates established for receipt and processing of ESAA applications with more uniformity than has been the case for the past 3 years.

USOE should develop a policy outlining the specific activities that can be provided by nonprofit organizations especially if they are to continue under the present legislative 8% set-aside arrangement. These activities should be limited in scope and show a cost effective relationship as they apply to the administrative overhead of operating such programs.

USOE/EEO should undertake the development and publication of a new set of ESAA program manuals that would be disseminated to both ESAA and prospective ESAA clients. We recommend such guideline manuals be produced for each specific program authorized under the Emergency School Aid Act.

The Office of Education should experiment with the usefulness of a two-part application proposal package. Local education agencies would submit their statistical eligibility and assurance data as a separate section from the actual educational proposal for which they are seeking funds. This would prevent a costly duplication of material in event that said client would have to resubmit their educational proposal.

Severe changes in a panel rated education proposal due to budget negotiations with the Office of Education should be submitted to an internal review panel prior to the issuance of the final award document by USOE. This would insure that said proposal would have attained the score attributed to it by the original nonfederal panel had such proposal been presented in the negotiated form.

Nonpublic schools that are eligible to receive services should be required to submit the necessary statistical and assurance data along with an educational proposal to the public school district from whom they expect to receive educational services provided for under the ESAA funding. Review panelists should be given the opportunity to evaluate the nonpublic schools' request for services as a companion proposal to the school district proposal, regardless of the fact that no points either for or against the public school district would result from such a review.

Monitoring reports by federal and/or state ESAA program officers on all ESAA programs should be made a required part of the proposal review process. This could be done by several means such as a scoring system devised by headquarters and utilized by field personnel with the score being transmitted to the panel or somehow utilized in the final statistical calculations, or by providing the panelists with the formal monitoring reports by program officers. Equitable scoring arrangements should be developed by USOE as new applicants competing for funds would lack such monitoring scores.

ESAA application, receipt, and processing procedures should be reviewed with the intention of providing a different form of competitive levels. Under a state plan framework, the in-state competition for funding could be on the basis of:

A) Nature of Eligibility:
   1) Court ordered desegregation
   2) Voluntary elimination or reduction of racial isolation

B) Size of District:
    1) Large
    2) Medium
    3) Small
C) Date of Final Phase of Plan:
    1) Future years
    2) Within past 8 years
    3) Within the last 10 - 15 years

Regional offices throughout the country should routinely receive complete samples of all programs currently produced under the ESAA educational television set-aside. Furthermore, USOE regional offices should be regularly supplied with complete program information concerning all applicants for national ESAA funding as well as complete program information throughout the project year on all nationally administered programs within their jurisdictional boundaries.

The U.S. Office of Education should concentrate on developing means to disseminate and promote the programs that are being funded under the ESAA TV portion of the Act. The Commissioner should consider setting aside funds under his discretionary authority for the purpose of developing a national dissemination and promotion campaign for the various ETV programs, or by administratively allowing for more financial support in the dissemination category in individual ETV proposals.

The U.S. Office of Education should intensify its review of equipment cost as it relates to the ETV productions, thereby avoiding duplication of expensive equipment being purchased under various federal and nonprofit programs. Purchase of expensive camera chains or related capital equipment should be authorized only under extreme justification.

The Commissioner of Education should insure that the regional offices of said agency are equipped to provide effective technical assistance and dissemination activity for the ETV program. The primary focus at the regional level could be one of helping school districts gear their systems to employ the programs that will be produced by the contracts awarded at the national office.

A further study of the effectiveness of the ESAA ETV program and the accomplishment of the intended purpose, as set forth in the statute, should be undertaken on a national scale.

That there be established a requirement specifying a teacher training component as a counterpart to any specialized math program. This teacher training should be geared toward the utilization of effective techniques with the faculty already at the respective schools within the program.

In order to prevent a self-perpetuating type of special projects behavior from occuring in particular school districts, there should be a requirement through which the school district submits a plan specifying how it intends to incorporate the special math techniques within its present operational structure as financed through its own funding.

An independent national evaluation of the effects of the math program should be undertaken in order to ascertain the cost effectiveness in relationship to other programs funded under the Emergency School Aid Act.

The Commissioner of Education should consider the formula in which the school districts that are participating in the special arts projects would submit a plan specifying a phasing out of the project's activity within the school budget over a period of time.

An evaluation of the cost effectiveness and the impact of the special arts projects should be ascertained as soon as possible.

The Commissioner of Education should expand the Special Student Concerns discretionary program.

The U.S. Office of Education should hold a national two-day conference based on the issues of special student concerns under a desegregated school system no later than June 30, 1977.

The results of the projects that are presently under ESAA funding and the information developed as a result of the national conference should be made available to interested agencies, school districts, and individuals throughout the country as soon as possible.

The Commissioner of Education should allow school officials responsible for the ESAA grant project submitted to the Office of Education for evaluation to be present during the panel evaluation of their application for funds. This departure from the normal operation of the Office of Education in reviewing the ESAA program is justified by the geographical and political uniqueness of the areas such as Puerto Rico, Guam, Samoa, and the Virgin Islands.

The Commissioner of Education should change Section 185.94-1(d) of the regulations which restricts the grantees or prospective grantees under this program to the provisions of Sections 185.12(b), (c), and (d). Again, due to the social, economic, political, and geophysical consideration, the restricting language should be deleted and the applicants allowed to seek more financial aid for planning, minor remodeling, and alteration of facilities than that which is allowed under the 10% ceiling presently in the regulations under Section 185.12.

The transitional features of special projects should be emphasized so that the experimental and/or demonstration aspect of the projects will be highlighted and districts will not begin to feel that these projects have become a way of life for them.

That special projects, excluding ETV, be for limited duration so that they do not become self-perpetuating.

That there is a need for more evaluative activity to be undertaken, especially with regard to the cost effectiveness of the various programs that are authorized to be funded under the umbrella of the Emergency School Aid Act.

The regional office personnel of the Office of Education should be provided with specialized training in order to enable them to give technical assistance in the area of all the various programs under the Special Projects portion of the Emergency School Aid Act. Included also would be an active role in information dissemination of the products currently available under the Emergency School Aid Program, such as the educational television products.

The Commissioner of Education should reappraise on a yearly basis all of the discretionary programs that have been authorized before automatically continuing the program for another year.

RECOMMENDATIONS OF PREVIOUS YEARS

Following are the recommendations that have been transmitted to the Assistant Secretary and to Congress since the establishment of the National Advisory Council. Many of these recommendations have been translated into action by the agency; however, many have not. Responses to all suggestions have been received from the appropriate agency heads responsible for the ESAA program. We feel, however, that at this point in time it is important for us to call attention to all our recommendations so that the new Administration can get a generalized overview of our concerns.

Summary of Recommendations, 1973

RECOMMENDATION A. 1a. The National Advisory Council on Equality of Educational Opportunity requests that in the future it be permitted early and active involvement in any modifications of Emergency School Aid Act regulations.

RECOMMENDATION A. 1b. NACEEO recommends that the Assistant Secretary determine the extent to which the public has sufficient time to advise him about proposed ESAA regulations and, in the event that sufficient time does not exist, suggest appropriate remedial action.

RECOMMENDATION A. 2a. NACEEO requests that in the future it be permitted early and active involvement in the development of criteria for the approval of ESAA applications.

RECOMMENDATION A. 2b. In the event that any school district eligible for ESAA participation is prevented from that participation because it lacks sufficient resources to develop an application, the Bureau of Equal Educational Opportunity should take the necessary remedial action to achieve application parity in this respect.

RECOMMENDATION A. 2c. 1. In the event that some potential ESAA applicants have difficulty in receiving ESAA financial assistance because they have already complied fully with the reduction of minority group isolation and, hence, do not receive eligibility points for same, NACEEO recommends that the application criteria be reevaluated.

RECOMMENDATION A. 2c. 2. An operational definition of "problems incident to desegregation" provided by Congress is needed.

RECOMMENDATION A. 2d. NACEEO recommends that the Assistant Secretary evaluate carefully the structure and function of the Panel Review in the application process, and, in the event that some changes are deemed feasible, initiate the appropriate remedial action for same.

RECOMMENDATION A. 3a. The Assistant Secretary should regularly compile all legal decisions in the field of equal educational opportunity and desegregation. The compilation should be accompanied by an analysis of the meaning of each decision, particularly as it relates to state and local educational administration. The compilation and analysis should be sent regularly to each state educational agency for dissemination to local school districts and other users of the information.

RECOMMENDATION B. 1a. Future legislation should provide specific monies for adequate evaluation of the educational achievement statuses and impacts of programs upon changes in those statuses for each specific minority group identified as a target group in that legislation. In addition, such an evaluation should include data about each sex within such group.

RECOMMENDATION B. 1b. Participants in such evaluative research mentioned in RECOMMENDATION B. 1a. must include evaluation professionals from minority groups.

RECOMMENDATION B. 1c. The Assistant Secretary is requested to give careful consideration to increasing the NACEEO budget to allow for sufficient funds to carry out the activities detailed in NACEEO activities.

RECOMMENDATION B. 1d. Greater emphasis should be placed upon evaluating school curricula and their relationships to occupational and other real life requirements.

Summary of Recommendations, 1974

A. ADVICE TO THE ASSISTANT SECRETARY OF HEALTH, EDUCATION, AND WELFARE

RECOMMENDATION A. 1. The NACEEO recommends that the Assistant Secretary consider initiating further action, where feasible, to implement recommendations of the first interim report of this Council.

RECOMMENDATION A. 2. NACEEO recommends that the pioneering idea of equal educational opportunity Student Advisory Councils be continued and expanded to make their work even more effective.

RECOMMENDATION A. 3. NACEEO recommends that the Assistant Secretary evaluate carefully the feasibility of providing alternative methods of financing all federal equal educational opportunity programs, including the provision of federal block grants to the states.

RECOMMENDATION A. 4. NACEEO urges the Assistant Secretary to promote national educational efforts fostering better understanding of the purposes and uses of valid and reliable testing and evaluation of school systems.

RECOMMENDATION A. 5. NACEEO recommends that the Assistant Secretary study carefully the types of programs that most effectively meet the diverse and specific needs of the seven racial and ethnic minorities named in the Act.

RECOMMENDATION A. 6.a. NACEEO recommends that the Assistant Secretary determine the extent to which historical and sociocultural study units about racial and ethnic minorities are integrated into the public school curricula.

RECOMMENDATION A. 6.b. NACEEO recommends that the Assistant Secretary initiate an evaluation of the educational programs applicable to new entrants to the United States; and recommend educational programs appropriate for their needs. It is further recommended that special attention be given the unique needs of entrants from the Far East.

RECOMMENDATION A. 7. NACEEO recommends that the Assistant Secretary investigate carefully the reasons for the support or opposition to busing and categorize these reasons to provide better knowledge and understanding of those which may or may not be related to racism.

B. REVIEW OF THE EMERGENCY SCHOOL AID ACT OPERATIONS

RECOMMENDATION B. 1. NACEEO recommends continued efforts for improving administration of the Act including providing more direct technical assistance to grant applicants and recipients; assessing the role of review panels; strengthening of local advisory councils; clarifying and supporting student membership roles; introducing forward funding; assessing the effectiveness of nonprofit organizational participation; increasing employment and career ladder development for bilingual professionals and paraprofessionals in programs servicing bilingual students; and providing inservice training for Office of Education personnel prior to and during the administration of ESAA programs.

RECOMMENDATION B. 2. NACEEO recommends continued and adequate evaluation of ESAA, with emphasis upon wider use of randomized controlled field studies designed to assess specific benefits of educational programs and to discover key variables in educational processes. Adequate funding and lead time are crucial for developing such studies.

RECOMMENDATION B. 3. NACEEO recommends that knowledge gained from ESAA evaluations be used and disseminated appropriately.

Summary of Recommendations, 1975

A. ADVICE TO THE ASSISTANT SECRETARY OF HEALTH, EDUCATION, AND WELFARE

RECOMMENDATION A. 1. ESAA's rules and regulations should be revised to promote equity among applicants distinguishable by such factors as size, proportion of minority students, and grantsmanship expertise.

RECOMMENDATION A. 2. OEEO* should continue to improve technical assistance to applicants and grantees.

RECOMMENDATION A. 3. OEEO should monitor carefully the composition, roles, and functions of ESAA funding review panels to assure adherence to regulated criteria and procedures.

B. REVIEW OF THE EMERGENCY SCHOOL AID ACT OPERATIONS

RECOMMENDATION B. 1. In order to reduce the proliferation and overlapping of federal programs, we recommend a comprehensive federal program providing state block grants for public elementary and secondary education. As a first step some joint consultation and exploration dealing with federal compensatory/desegregation funds should be launched.

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*Office of Equal Educational Opportunity

RECOMMENDATION B. 2. In pursuit of equal educational opportunity for our nation's children, Congress should establish and develop a procedure for determining national educational goals and accountability.

RECOMMENDATION B. 3. Congress should direct the National Institute of Education to develop, validate, and maintain national high school twelfth grade competency examinations and to assist states in the administration and certification of such examinations.

RECOMMENDATION B. 4. Congress should increase its efforts to improve the quality of education for all students. In particular, special emphasis must be placed on improving the educational quality of minority impacted and isolated schools. Inasmuch as desegregation is not the sole remedy, additional remedies for promoting quality education for all children must be pursued vigorously.

RECOMMENDATION B. 5. Priority emphasis must be given to the delivery of high quality education for all elementary school age children regardless of the location of the school. Congress should consider financial assistance by capital grants for new construction or major renovation in order to assure the equitable distribution of quality education.

RECOMMENDATION B. 6. Congress should modify its present restrictions upon the use of federal funds for transportation by providing financial assistance on a matching basis with the states for implementation of court-ordered and/or voluntary desegregation.

RECOMMENDATION B. 7. Congress should promote effective cooperation between the U.S. Department of State and Office of Education for the specific purpose of ensuring adequate educational opportunities for immigrants and refugees, including, where necessary, provisions for bilingual education.

RECOMMENDATION B. 8. Congress should provide adequate funds and sufficient lead time for effective evaluation of federally funded programs for elementary and secondary education, including ESAA, and should promote the dissemination of all relevant data to appropriate groups and agencies.

RECOMMENDATION B. 9. The National Institute of Education should disseminate widely successful public school desegregation and quality education models.

RECOMMENDATION B. 10. Congress should strengthen significantly the roles of state educational agencies in ESAA or its successor.

RECOMMENDATION B. 11. The participation of non-profit organizations (NPO's) in ESAA or its successor should be at the discretion of local educational agencies (LEA's) with appropriately structured appeal procedures.

Appendix 8

RON deLUGO
DELEGATE, VIRGIN ISLANDS

COMMITTEE ON INTERIOR
AND INSULAR AFFAIRS
SUBCOMMITTEES:
NATIONAL PARKS AND INSULAR AFFAIRS
GENERAL OVERSIGHT AND
ALASKA LANDS
ENERGY AND THE ENVIRONMENT

COMMITTEE ON MERCHANT
MARINE AND FISHERIES
SUBCOMMITTEES:
MERCHANT MARINE
COAST GUARD AND NAVIGATION
OCEANOGRAPHY

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Washington, D.C. 20515

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(809) 773-[illegible]

5 King Street
Frederiksted, St. Croix
(809) [illegible]-1414

June 8, 1977

In Reply Refer to:

RDBSVF060877

The Honorable Carl D. Perkins
Chairman
Committee on Education and Labor
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Later this month your Subcommittee on Elementary, Secondary and Vocational Education will be holding hearings on the Emergency School Aid Act. During these hearings I will address myself to one small portion of the bill.

As written, Section 708 of ESAA, the Special Programs and Projects Section, excludes the non-profit organizations in the U.S. Territories from applying to the U.S. Office of Education for funds, with the exception of 708(a). This is because the Virgin Islands, and the other U.S. Territories, are not defined as States for purposes of most of this section. Therefore, the NPO's in them are excluded.

I have introduced H.R. 7608 to change this. The bill has been referred to the Subcommittee and simply redefines States to include the V.I. and the other Territories for purposes of this Section so that the non-profit organizations in them may apply and compete for funds as do their counterparts in the States.

It seems to me that the exclusion of these NPO's was simply an unintentional oversight when the bill was enacted. A reading of the Section can be confusing and necessitates looking at several other sections simultaneously.

It is important to note that my bill allows the non-profit organizations to compete for funds like State NPO's. It in no way favors them.

Since the Territorial NPO's have been excluded from competing for funds historically under this Act, the only method of participating has been as a sub-contractor to the local Department of Education. This method is a cumbersome and unsatisfactory way of coping. Firstly, the NPO is judged not on its merits, but on the merits of the local Education Department. Secondly, if the proposal of the local Education Department is rejected, the NPO also loses. Finally, even though a project may be accepted by the U.S. Office of Education, there is no rigid guarantee that the NPO will receive funds, even though it might have participated in the formation of the project from the beginning.

It is my belief that the NPO's in the Territories deserve to be treated like their State counterparts. That is the intent of my bill. I hope that Subcommittee will agree with me.

Please feel free to contact me if you have thoughts on this, or if I can be of assistance.

With best regards, I am

Cordially,

RON deLUGO
Member of Congress

TESTIMONY OF HONORABLE RON DELUGO

before the

Subcommittee on Elementary
Secondary and Vocation Education

June 14, 1977

Mr. Chairman and Members of the Subcommittee:

I wish to thank the Subcommittee for allowing me this opportunity to discuss one small portion of the Emergency School Aid Act. I am well aware of the work before the Committee, so I will get right to the point.

The non-profit organizations in the U.S. Territories are excluded from competing directly for funds under most of Section 708 of ESAA, simply because, for all but Section 708 (a) of the Act, the Territories themselves are not defined as States and therefore the NPO's in them cannot compete for funds as do the NPO's in the States.

I introduced H.R. 7608 a bill which was referred to the Subcommittee and which allows the non-profit organizations in the U.S. Territories to apply for these funds just as the NPO's in the States compete. While the language of the bill is confusing, the intent is clear and simple.

Non-profit organizations in the Territories have either not participated at all in the Act, which was surely not the intent of the legislation, or they have been forced to try to become sub-contractors to the local Department of Education.

This latter method is a rather cumbersome and unsatisfactory method of coping. Firstly, as sub-contractors, they are judged by the U.S. Office of Education not on their merits, but on the merits of the local Education Department. Secondly, if the proposal of the local Education Department is rejected, the non-profit organization also loses. Thirdly, even though a project maybe accepted by OE, there is no rigid guarantee that the NPO would receive any portion of the approved funds.

Therefore, I ask the Subcommittee to look closely at this and to incorporate the changes found in my bill into any new legislation.

Thank you.

TESTIMONY
OF
DR. BILL M. HOLCOMBE, SUPERINTENDENT
RICHLAND COUNTY SCHOOL DISTRICT ONE
COLUMBIA, SOUTH CAROLINA

JUSTIFICATION FOR CONTINUED SUPPORT OF EMERGENCY SCHOOL AID ACT PROGRAMS

The purpose of my remarks is to briefly outline the benefits which have come to students of this school district under the Emergency School Aid Act and convince you that the "emergency" situations as a result of school desegregation yet exist in our school district. We know success breeds success and that the successes of our ESAA programs are cumulative in their effect. Students and teachers who have profited from ESAA programs are just beginning to internalize gains made as a result of ESAA programs.

The possibility that funds for southern school districts such as Richland One will be drastically reduced, (our district already anticipates a cut of approximately $40,000 for 1977-78) precipitates this plea to provide adequate funding for ESAA programs which will support programs of newly desegregating large metropolitan areas of the northeast, midwest and western areas of our country, and will also allow for the continuation of what we believe are highly successful programs which may serve as models for desegregating school districts throughout our nation.

Although desegregation is a fact in our school system, the need for Emergency School Aid funds will remain until we can say, with candor, that our schools are integrated.

Richland School District One over the past four years has received grants under the Emergency School Aid Act. These funds have been used to help alleviate problems which this school district encountered in implementing its desegregation plan.

Primarily basic grants have been used to improve basic skills of elementary and middle school students who suffer effects of past racial isolation and who, because of desegregation plans, often find themselves attending schools out of ethnic neighborhoods and often in highly affluent areas where they must compete with highly motivated middle class students. The main thrust of funds in basic grants has been that of concentrating services on these youngsters to improve basic reading and math skills and building positive feelings of self which come with academic success. Surely, we are accomplishing these goals as will be pointed out later in this paper.

Pilot grants under the ESAA have in the past been concentrated on secondary students. As well as academic support, counseling support and activities which help make students more secure in new school settings have been stressed. Academic support on the secondary level has been focused upon teaching skills which will be needed in the working world -- skills which will produce taxpayers and not recipients of various welfare programs. Reading and math programs have been highly coordinated with Vocational programs.

In addition, for the past year, ESAA funds have supported a program for fifty of the artistically talented tenth, eleventh and twelfth graders of this school district. These students have had the opportunity to work with outstanding artists and authors and have attended art festivals throughout the state, including the Spoleto Arts Festival in Charleston.

Two years ago, this school district with ESAA funds initiated workshop programs for parents of ESAA target students -- the premise being that parents are the first, foremost and most important teachers of their children and that they must initiate and reinforce the schools' role in teaching their children. The program has attempted to teach parents ways of reinforcing specific cognitive skills. This year our research department will look at standardized scores of these target students with a great deal of interest.

Equally important in all ESAA programs in this school district has been an extensive teacher inservice training program which ESAA funds have allowed for the entire four years. These funds have been used to help teachers learn ways of understanding, identifying, and treating students with varying attitudes and values. Also teachers are taught how to identify the many different instructional skills needed by individual students in the same classroom, and how to prioritize instruction and bring about mastery of unlearned skills. In addition, methods of managing classroom instruction with heterogeneous groups of students whose range of achievement may spread over a wide achievement area have been a priority inservice objective. Teaching skills and strategies learned by teachers in the staff development component of the ESAA program will continue to be used by teachers to enhance the instruction of students now and in the future.

Our ESAA basic program (a treatment and a control school) was chosen for study by System Development Corporation, which was under contract to the United States Office of Education to conduct evaluation under the national evaluation of ESAA programs. An extensive testing program and attitudal study was made of each of these schools during the school years 1973-74 and 1974-75.

At the beginning of the 1975-76 school year, the System Development Corporation included our ESAA schools, with 29 schools throughout the nation, for their substudy of the ESAA program called the In-Depth Study of Successful Schools. The principal product of this study is the identification of school programs or program components that are successful in raising the achievement level of various types of students. We have been pleased to cooperate in these studies and we look forward to the results and the opportunity to share successes we have had with other school districts.

Gains in achievement scores are evident, especially for the last two years of the ESAA programs as can be seen in the following quotes taken from 1975-76 evaluation reports to the United States Office of Education and made by the Director of Research for Richland County School District One. (1977 scores not yet available).

Basic Grant: Reading (CTBS/S) ......

....."at all three grades the mean gain was at least one year (see also Table 3) indicating that considerable improvement was made in basic reading skills."

Basic Grant: Math (CTBS/S) .....

....."sixty percent of the ESAA students in grades three and six did gain one year, and the mean gains (see Table 4) were large indicating substantial improvement in basic mathematics skills."

Pilot Grant" (Disruptive Behavior) "Objective Ia was obtained.....

There was consistent and dramatic decrease in disruptive behavior among target students at both schools.

Pilot Grant: Reading and Math (CTBS/S)

....."about 47% of the students made a six months or greater gain in reading while 56% made a six months or greater gain in mathematics. While these figures are lower than projected, (in the objective of the project) they do, nevertheless, represent very substantial growth in achievement for the target population."

Attached are two documents concerning evaluation of Richland District One ESAA programs.

Although we see progress, we know that the emergency is not yet over and "integration" not yet accomplished. Successes of special programs build one upon the other, and the fear of pulling support from our students, who are now beginning to show independence, confidence and pride, forces us to make this request for adequate funding of ESAA programs to help eliminate our problems and those which exist throughout the nation.

It is important that you remember that the Southern area of our nation has been a leader in creating unitary school systems -- many voluntarily. When ESAA begain, Southern states received regular state allocations and often healthy portions of monies which were the result of a reallocation from states which were doing little about desegregation three and four years ago. As large cities in other areas of the country are now being forced to desegregate schools, reallocation funds are becoming extinct.

Again, this plea is for adequate funding for ESAA programs which will allow support for new programs but will also allow continued support for programs which have made excellent beginnings but have not yet had time to become an integral part of the system's total program or the child's inherent total knowledge.

MUSCOGEE COUNTY
SCHOOL DISTRICT
P. O. BOX 2427
COLUMBUS, GEORGIA
31902 404/324-5661

OFFICE OF
ASSISTANT SUPERINTENDENT

June 10, 1977

Hon. Carl C. Perkins
Chairman
House Subcommittee on Elementary,
Secondary & Vocational Education
Rayburn House Office Building
Room 2181
Washington, D.C. 20515

Dear Congressman Perkins:

We are most privileged and would like to express our appreciation for having an opportunity to appear before your distinguished Committee in regard to the Emergency School Aid Act. In order to familiarize members of the Committee with the Muscogee County, Georgia, School System and the related benefits derived from the ESAA Program, we have prepared the enclosed attachment for your consideration and review. Briefly, this document gives some history of our School District, the scope of our ESAA Program, the benefits derived from it and the critical need for continued support and funding at the Federal level.

Thank you for your indulgence, and we appreciate the opportunity of presenting our concerns to both you and members of the Committee.

Sincerely,

ROBERT L. BUSHONG
Assistant Superintendent for
Program Planning and Development

RLB/jlp

Columbus (Muscogee County) is located in central west Georgia along the Chattahoochee River. Columbus city and Muscogee County governments were consolidated in 1971 to form the Columbus Consolidated Government. According to the office of the Mayor, the present population of Columbus (Muscogee County) is about 180,000, of which 74 percent are white and 26 percent are non-white. In conformity with the patterns of large metropolitan areas of the seventies, the inner city of Columbus is heavily populated by the minority race.

The Schools of Columbus (Muscogee County)

The Columbus city and Muscogee County school systems merged in 1950 to form the Muscogee County School District.

In the Muscogee County School District there are fifty-eight (58) public schools which serve approximately 35,931 students. This total enrollment includes 22,443 white students (62 percent) and 13,488 non-white students (38 percent). Of the fifty-eight (58) schools, forty-two (42) are elementary schools containing grades one through six; nine (9) are junior high schools containing grades seven and eight; seven (7) are high school containing grades nine through twelve. All of the elementary schools except one have kindergarten classes. There are special education classes at the elementary level and in the secondary schools.

Two of the seven high schools in the county are comprehensive and plans are underway to expand industrial arts and vocational areas to include at least six (6) vocational units in the non-comprehensive high schools thus all high schools in the system are becoming comprehensive. Construction is underway on two new high schools--one in the northern part of the county, one in the southern part of the county.

Plans have been made for expanding present elementary and junior high school plants and for the construction of one (1) new junior high school and one (1) new elementary school.

Desegregation Plan

Prior to the opening of the 1971-72 school year, the Middle District Court ordered the Muscogee County School District Board of Education to operate a unitary school system. School populations, including students and teachers were required by the court to conform to the prevailing total enrollment ratio of minority and non-minority students. The desegregation plan provides that:

- The quota or percentage of white and black students in each school shall be substantially the same as is the percentage of white and black students in the entire school system at the end of the current term.
- All white and black students entering the first and second grades next school year shall be assigned to the neighborhood school nearest the residence of said students which then has space available.
- All white and black students who register on the registration dates for the next ensuing school year shall be assigned to the neighborhood school nearest the residence of said student which then has space available and has less than its quota of white or black students, as the case may be.

The desegregation plan, under which the Muscogee County School District continues to operate, mandates that the ratio of minority and non-minority populations in each school each year be in proportion to the ratio of those populations as represented in the entire student body. The proximity of the military establishment, Fort Benning, coupled with the usual mobility for a city of this size, makes for a bi-mobile community. Compliance with the desegregation order necessitates that each year large numbers of students be moved from previously attended schools. Students from more affluent neighborhoods are bused into inner city schools and conversely, students from less affluent neighborhoods are assigned to schools in suburban and more affluent areas.

The magnitude of problems brought about as a result of desegregation is a critical concern of the Muscogee County School District. It is reasonable to assume that members of both the minority and non-minority groups in the schools experienced a degree of cultural shock when total desegregation became a reality.

The ESAA program has been among the most effective of federally funded programs in helping school systems to resolve desegregation-related problems and to assist the total community in a better understanding of inter-racial and inter-ethnic cultures.

Public Law 92-318 (ESAA)

The Ninety-Second Congress of the United States of America enacted Public Law 92-318, containing Title VII, entitled the Emergency School Aid Act, on June 23, 1972. The Congress declared that the process of eliminating or preventing minority group isolation and improving the quality of education for all children often involves the expenditure of additional funds to which local educational agencies do not have access.

The three broad purposes of ESAA relate to problems created by minority group isolation in the nation's schools. The financial assistance which Congress has made available is intended to:

- meet the special needs incident to eliminating minority group segregation and discrimination among students and faculty in elementary and secondary schools
- encourage voluntary elimination, reduction, or prevention of minority group isolation, and

- aid schools in overcoming the educational disadvantages of minority group isolation.

The purposes can be stated in simple and direct terms but imply a complexity of factors and relationships that defy simplicity in identification or treatment. The factors which contribute either positively or negatively toward meeting the purposes of ESAA can not be isolated and treated individually. Any attempt to do so would be educational folly.

The ESAA projects in Region IV have been highly successful and effective in overcoming many difficult problems related to desegregation or racial isolation, and in raising the quality of education among children in southern school systems, and such programs, beginning with the Emergency School Assistance Program (ESAP), have saved southern communities from the strife seen in other parts of the country and have aided to quickly settle racial disturbances.

ESAA Program in Muscogee County School District

The three components that comprise the FY77 Muscogee County School District ESAA Basic Project are Remedial Services, Human Relations and Community Activities. The program is designed to remediate reading deficiencies, to develop interpersonal skills, and to stimulate effective home-school relations.

Under Remedial Services of the 1976-77 ESAA Basic Project, Muscogee County School District operated twenty-four ESAA reading labs for children in grades 1-8 and one lab in a parochial school. The twenty-five labs were located in schools which do not meet the Title I guidelines for eligibility as there are existing programs in these schools. Through this arrangement, greater assistance is provided for a larger population of students with reading deficiencies in the school district.

Each ESAA reading lab was staffed with a reading teacher. The services of ten instructional aides were shared among the twenty-five schools. The program provided an individualized, prescriptive reading program designed to remediate the particular reading deficiencies of the individual child.

After students were selected to participate in the reading program, various diagnostic instruments, interest and attitude inventories were administered to determine the student's basic reading skill needs, strengths and interests. A prescriptive reading program was designed for each student based on his or her individual need. Classroom teachers and parents of the students were notified and conferences planned to discuss the specific reading deficiencies and prescribed remediation.

The twnety-five labs operate under similar management systems with each being flexible enough to meet the need of their particular stiuation. The lab facilities vary from regular classrooms to clinics, large storage closets, and library conference rooms--whether large or small the reading labs are attractive, provide warmth and promote an atmosphere for learning. The labs are organized in learning centers to enhance the management system. Multi-level and multi-media materials are utilized in each lab with a concentrated effort in most instances upon the Hoffman Instructional System as the core. Plus 4 is used with students at upper elementary and junior high levels who need extensive phonics. Clues, a program for improving vocabulary and comprehensive skills has created a lot of interest and learning among students at the junior high level. Multi-level paperback books, reading games and activities provide a wealth of highly motivational materials which reinforce, enrich and expand reading interests and skills for students at all levels. Teachers have creative resource files containing worksheets, creative writing ideas, paragraphs, puzzles, and many other activities that plug into the management system and are used as part of the student's individual prescription to reinforce reading skills.

The ESAA reading program is designed to instill a better self-concept within the student as well as teach reading skills. Therefore, the experiences and activities provided for these students are success oriented.

Evaluative instruments were administered as part of a diagnostic prescriptive process and student folders were maintained to monitor progress of project children. ESAA reading teachers and classroom teachers conferred frequently to ensure a coordinated effort between the two programs. The students remain in the program until satisfactory improvement in reading skills are demonstrated by results on standardized instruments and/or until positive change in self-concept is observable. As students progress to their reading level, they are replaced by other students who need extra tutoring.

Remedial Services Program Results

The remedial services program is evaluated in part by standardized tests. During the 1976-77 school year 1273 children in grades 1-8 were enrolled in the remedial reading program. Students were tested upon entering the program with the Stanford Achievement Test and individual student's grade levels in reading were determined. At the end of the project period final test results for the same students were compared with their beginning reading level to determine what improvement, if any, is made.

The average reading level for the 200 second graders in the program at the beginning of the year was 1.5. This meant that the second graders reading skills were at about the level expected for a first grader who had completed half the first grade year. At the completion of project participation, the average reading level had increased to 2.1. This represented significant accomplishments for those target children whose normal rate of academic progress was anticipated by evaluative indicators to be considerably less.

Two hundred twenty-two (222) third graders improved in reading from a 2.1 average grade level to a 2.7 grade level. In grade four, 212 students improved from the 2.8 grade level in reading comprehension to the 3.5 level. For the 195 fifth graders, reading comprehension improved from the 3.7 level to the 4.4 level.

With remedial services emphasis on reading and improving self-concept, it was expected that improvements would be observable in other school related areas. Tests in these areas proved this to be true. Comparable improvement was shown in other academic areas.

The Human Relations component of the ESAA Basic project consists of a Human Relations Program in each of the school district's sixteen secondary schools (nine junior high schools, and seven senior high schools). The program is both preventive and remedial in nature in that it deals with students who have already experienced discipline problems as well as those who are seeking assistance to avoid conflict.

The Human Relations Program is designed to:

1. provide individual and group counselling to support the student's attempts at meeting his educational and emotional needs.
2. provide assistance to the student in cultivating the art of relating to the school staff and his peer group in ways that are personally meaningful yet consistent with good school citizenship.
3. provide assistance to the student in understanding the situation surrounding his misbehavior and in developing skills with which to cope.
4. provide opportunities for the student to examine his system of values in relationship to values of the school and society-at-large and to reconcile existing conflicts.
5. provide assistance for the student to develop means of controlling personal behavior and to appreciate the need to do so.
6. provide an alternative for dealing with students guilty of misconduct, other than removal from the academic setting (out-of-school suspension).
7. reduce the number of suspensions by providing assistance to students in positive modification of behavior that usually leads to suspension.
8. reduce the number of school behavior problems that ultimately result in juvenile or criminal offenses.
9. all students participating in the program to keep pace with their regular academic classes in so far as possible and return to the regular class with minimum difficulty.
10. meet the individual's academic need through individualized and/or remedial instruction.

Each of the seven high schools within the school district has one Human Relations teacher and one aide. Each of the nine junior high schools has one Human Relations teacher. These teachers carry out the human relations activities.

During the 1976-77 school year the Human Relations teachers were involved with 2685 cases. Some students were in the program for more than one time. The following chart indicates the areas of conflict, the grade level, and minority-majority status for these students.

Human Relations Counseling
Composite Information
(Areas of Conflict Requiring Assistance)

Area	Junior High	Senior High	Total
Student/Adult Conflicts	650	662	1312
Peer Conflicts	226	189	415
Self-Control	19	18	37
Substance Abuse	1	11	12
Coping within the school	134	775	909
		TOTAL	2685

	Black	White	Total
Junior High	554	476	1030
Senior High	834	821	1655
Total	1388	1297	2685

Standardized tests such as the Survey of Study Habits and Attitudes and Rational Behavior Theory Scales are used to measure student progress. Data from these tests indicate that the program is successful and is a viable resource for positive human development; however the large number of students in the program and the high percentage of minority students would indicate a need for continued assistance.

The Community Activities component of the ESAA project has a primary purpose of improving home-school-community relations in order to strengthen the support which all children need to successfully function and progress in school.

Several factors operating within the school situation are indicators of problems which affect a child's educational success or lack of success. One such factor is absenteeism. Since desegregation, the yearly percents of attendance have decreased. The table below presents the attendance pattern since 1970-71, the year prior to desegregation.

Yearly Percentage of Attendance for
1970-71 through 1974-75 for the Muscogee County School District

Grades 1-12

School Year	LEA Percentage of Attendance	Percentage of Change Over 1970-71
1970-71	94.4	
1971-72	93.5	-.09
1972-73	93.4	-.01
1973-74	93.6	-.8
1974-75	93.7	-.7

The court-approved plan of desegregation has resulted in large numbers of children being transported from schools near their residence to schools several miles removed. This is considered a contributing factor to the high rate of absenteeism and problems associated with adjusting to new school environments.

Though the percent of decrease from one year to the next appears small, when the average decrease over the span is considered in relation to a school population average of 40,000 students, it translates into a considerable loss of educational time. On an average, 260,000 absentees occur each year with the minority group children having the higher absentee rate.

Other indicators of problems related to desegregation include (1) an increase in discipline problems resulting in suspensions, with the minority group children constituting the greater percent of the suspensions; (2) a decrease in parent participation in school affairs, especially by minority group parents; (3) an increase in the juvenile crime of vandalism of school properties, especially in certain neighborhoods; and (4) a decrease in participation in co-curricular activities by minority group children.

The Muscogee County School District realizes that parent and community involvement are necessary if these type problems are to be resolved. It is necessary that parents of children experiencing these difficulties should not only be apprised of the problems but, where indicated, given assistance to help them develop solutions. This approach strengthens the family's capabilities to deal with future problem situations. The Community Activities ESAA component provides this type of help.

This program component utilizes twenty-one (21) paraprofessional home-school coordinators (Community Aides).. The Community Aides work with parents and students in the home on school related problems. Efforts are made to keep good communication flowing between the school, home and community at large on school matters. Problems which can undermine a child's development are given priority assistance within program means.

The Community Aide has these objectives during a school year:

- To provide the school communities with an opportunity for increased family services
- To further develop community involvement through improved communications
- To maintain and further develop positive staff relations
- To develop a process for understanding the needs of the child, the family and the community
- To provide services for the individual child that can contribute to his health and well-being
- To provide services for families within the community that will contribute to the development of family responsibility and independence
- To contribute to the operation of the community education team in each school
- To attempt to evaluate the ways in which needed services are delivered to families within the community

Community Activities Program Results

The following table provides information on the types of home-school problems that were dealt with by the Community Activities program during the 1975-76 school year. These figures were compiled from logs and reports of the 21 Community Aides and from school records.

Data on Community Activities

1975-76

Activity	No. of Cases	% of Project Time
Advising parents of community social service agencies and/or organizations	4,158	10.4
Serving as communications liaisons between home and school on academic, behavior or other problems	13,986	36.8
Providing transportation for parents/families to social service agencies/organizations	1,512	4
Providing transportation for parents to attend school conferences	2,268	5.8
Providing assistance in emergency situations involving students	756	2
Serving on task force to assist with campus control during student unrest	38	.1

Data on Community Activities (continued)

1975-76

Activity	No. of Cases	% of Project Time
Assisting with rumor control	4,536	11.7
Participating in school conferences with parents, staffs, students to resolve problems	6,048	15.4
Assisting with vandalism control through community action	341	.9
Assisting with attendance problems	3,402	8.7
Others	1,756	4.6

Desegregation and the Continued Need for ESAA

The Muscogee County School District is one of many school districts in the South that has tried to systematically develop approaches to resolving the monumental desegregation-related problems which developed over the decades but which surfaced overnight. As with other districts, the ESAA programs in the Muscogee schools, such as those outlined in this presentation, have been most effective in providing human and financial resources which otherwise would not have been available. Continued ESAA support is essential if these districts and others are to progress toward the quality education their children deserve. Our nation cannot afford a setback in any segment of its efforts to achieve total and maximally effective desegregation of the schools.

The South has generally adhered to court decrees and has usually established unitary school districts as required by law. The South no longer makes national headlines with violence in the schools. Explosive school situations appear to be of the past. Anti-busing rallies are less frequent in the South. The white out-flight appears to have leveled off. Civil rights, militant and/or racist groups don't appear to be as active as they once were.

The South appears to have conquered the problem; however, it has not conquered the problem, but has been successful, with the help of ESAA, in locating the tip of the iceberg. This gives those not close to the problem the impression that the South has the whole iceberg under control. A great deal of hard work and money have gone into reaching a point of knowing where the iceberg is, but control is far from being accomplished. Realistic school districts know that the intent of desegregation cannot be realized in the relatively brief period since segregation was the law of the land. These districts are proceeding in an organized fashion to make desegregation work.

Most school districts are very much aware that those factors which lead to explosive school situations still exist and are not now surfacing only because efforts are being made to prevent explosions. Those closest to the school situations know that those attitudes which promote "organized delay" in working through the core of desegregation-related problems are still prevalent. They also realize that there are those who are impatient to see noticeable positive differences as a result of desegregation and that impatience is mounting.

School districts know that it takes time, effort and a degree of control if children of minority and non-minority races and cultures are to recognize, understand and benefit from each other's contributions.

The mechanics of achieving racial ratios within the schools can be easily accomplished by assigning students, paring or clustering schools, defining attendance zones or other such techniques. What results is surface desegregation.

What is happening beneath the desegregated surface is what requires ESAA assistance to school districts in their efforts to resolve the actual problems. Immediate problems include those concerning

- students re-segregating themselves in lunchrooms, on playgrounds and whenever the opportunity arises.
- students polarizing by race or ethnic identity during conflict situations.
- minority group students still lagging in achievement behind the non-minority group students.

- schools trying to determine how to best handle student elections in the democratic tradition yet provide for proportionate representation of all groups involved,
- how to resolve the educational problems of heterogeneous vs homogeneous groupings within the desegregated setting.
- how to resolve problems relating to participation in athletics.
- how to affect attitudinal changes necessary to make desegregation work.

UNITED STATES HOUSE OF REPRESENTATIVES

Subcommittee

Elementary, Secondary and Vocational Education

16 June 1977

Statement of

Hazel H. Fournier
Assistant Superintendent

Mobile County Public Schools
P. O. Box 1327
Mobile, Alabama 36601

Concerning-Emergency School Aid Act

To the honorable members of the U.S. House of Representatives, Elementary and Secondary Education Sub-committe I, Hazel H. Fournier, of the Mobile County Public School System, appear before you today in behalf of the children of the South in general and those of the State of Alabama in particular. As a member of a triple minority - black, female and Southern - a product of the dual school system, and educator of twenty-three years (nine years in the classroom, nine years as an old fashioned attendance officer, and five years of experience in general administration working specifically with the issues and problems of desegregation), I firmly believe that my experiences have more than adequately prepared me to be sensitive to the needs of deprived children.

During the Spring of 1972, a blossom of hope unfolded in graceful defiance and in grateful assurance in the numerous school districts across the land...the country that observers and recorders of human events have so correctly characterized as the finest exercise of the noble, just and humane principles that underlie the democratic process the world has ever known, and conceivably will ever know. Graceful defiance? Yes. For despite many years of neglect by decision-makers whose political and philosophical outlooks were tempered by another time and whose profession of allegiance to democratic ideals was sometimes negated by deeds flagrantly undemocratic in their nature and in their results...despite this and other innumerable influences of such contradictions, the tendencies that gave rise to the blossom of which I speak tenaciously sank and rooted themselves into an arid terrain. Sustained by faith in an ultimate change in our legislative and political climate, the long and trying wait did not go unrewarded.

In August of 1973 ESAA came into effect. This instrument was devised, among other needed things, to offset years of deprivation suffered by school children whose greatest sin was that they were the offspring of economically inadequate parents or of parents who belonged to an ethnic minority group.

In defiance of this harsh terrain, the blossom unfolded. Grateful? Yes, under the conditions just mentioned patience is a sustaining feature, an essential attribute. At last, some relief was given in an effort to counteract the many problems experienced by the deprived.

Now we, the children of the South...the intellectually malnourished...are faced with the real possibility of the loss of this program that has done so much to remove the basic educational disparity between the have and the have nots in our cavalry. Some people in various seats of authority think it has served its purpose...that the gap has been significantly reduced...that the program can no longer be justified.

But those who hold this belief should be reminded that the most vital gesture that generated this need is as much with us today as it has been for the past two centuries; namely, economic deprivation. Attention should also be directed to the fact that public education, as an on-going process, is required to meet a new group of deprived children at the school door each September. You are already aware of the relative inadequacies of their cognitive skills and their attitudinal disposition at the outset of their formal school lives, and how this gap grows...and how, as a direct result, the negative attitudinal dimensions become progressively intractable. You are also aware of how the absence of saleable and concurrent presences of apathy conspire to create the ever darkening and ominous shadow of hopefulness...

Unfortunately, the possibility does exist that some people have grown tired of considering such matters as these. Maybe this is understandable, with so many other issues demanding attention; such as whether to normalize diplomatic relations with Cuba, defining our role in bringing about a transition in the government of South Africa, determining whether to grant loans to the Soviet Union or what type of economic aid we should offer the communist region of Viet Nam, a country where virtually every adult American knew by name and face at least one young man who died or was maimed in that distant and hostile country. Nevertheless, the malignancy of the flight of the poor is constantly engulfing our entire society. If neglected, a significant number of students who have benefitted and who are benefitting from ESAA, will find their way into those reprehensible areas of life that all decent Americans view with horror...crime, drug addiction, prostitution...to name but a few of the vicious forms a dream takes when it becomes a nightmare.

The brunt of the burden of these crimes eventually is borne by the general population. The merchant's loss to the burglar, the thief, or the credit card swindler is passed on to us, the consumers. The cost of incarceration and the attempts at rehabilitation are borne by the taxpayer. Welfare payments, which even many recipients find distasteful and would prefer the chance to learn a skill, craft or trade, are underwritten by the general public.

Comparative studies of the classroom performance by the students exposed to the benefits of ESAA show significant improvements over the accomplishments of those children of similar backgrounds but whose schooling occurred prior to the enactment of the program. Particularly noteworthy have been gains in language skills and mathematical computation skills - areas which, by general consensus, are crucial to success in life - and virtually all post high school training programs intended to provide the learner with a skill, craft or trade, or prepare him to pursue one of the professions. The cessation of ESAA would result in a cessation of these gains. A denial of this opportunity would be one of the surest ways imaginable to guarantee failure and to nurture discontent. Meticulously and authoritatively, orchestrated learning strategies developed so painstakingly over countless hours and which have proved their efficiency time and time again would be relegated to storage rooms. The students for whom the strategies were designed would be thrown to the mercy of caprice. Chance rather than reasoned choice would rule not only their educational lives but ultimately their very existence. It is unlikely that any of us want this to occur. It is equally unlikely, beyond our educational system, that we have the philosophical wisdom, the moral responsibility, the legal resolve, the economic means to prevent this occurrence.

Even with the strides that have been made toward the realization of the objectives of ESAA the ongoing need to promote attitudinal changes among professional educators regularly makes its presence known. All too often in moments of crisis or conflict which bring the have and the have nots to an impasse, prejudicial tendencies which are malleable but have not yet achieved a practical level of modification reassert themselves. Hence, in schools when minority groups constitute a minority of the school population, such students are dealt with much more harshly by faculties and administrators than are students of the majority group. Simple infractions, such as minor violations of the dress code or improperly submitted absence or tardy slips, commonly result in maximum suspensions. Also, parental conferences may be demanded during the school day. Of course, this means the loss of several hours pay from a salary that, in many cases, is already well within the poverty level of subsistence.

The point is that the geographical placement of a student in a setting that apparently has certain educational advantages does not of itself mean that the transported student will automatically be a beneficiary of those advantages. The converse is often the case. For example, a questionable tracking system is one ploy frequently used to lock a student into a program designed merely for the acquisition of minimal skills. To achieve this end standardized tests are administered at the beginning of the year. Their validity is sometimes questionable because they do not measure native intelligence but mere exposure. Predictably the results are poor, and with these poor results the student's academic fate is sealed.

Unfortunately these students have little hope of progressing beyond the lower levels of the learning taxonomy. In exercising their freedom of choice or fulfilling court mandates they are placed in double jeopardy as they view a more alluring array of educational experiences in which they will probably never fully participate or enjoy the benefits. Tokenism? Yes. As first class students endowed with all the rights and privileges thereof? No. Is this the price these unfortunate minority children must pay to have their system declared unitary by law?

This negative feeling, exhibited by many students and reinforced in far too many instances by teachers and administrators, needs your personal attention and support.

The accomplishments, findings and portents that have emerged, evolved and unfolded as a direct consequence of the program, whose existence lies in the balance, merit your serious consideration and support. Who could really be condemned for consenting to help our underprivileged school children to secure a footing on the ladder of educational success? Whose position is so tenuous that a vote for the continuation and expansion of this much needed public service would be indicative of a compromise of political beliefs?

Let the record show that one-fifth of our adult population has difficulty in coping with the everyday chores of shopping, reading the daily news and utilizing a telephone; also obtaining a driver's license. There is supportive data that indicates that 16% of the whites, 44% of the Blacks and 56% of all Spanish surnamed young adults of our country are classified as functioning incompetent. By regions we find that 25% of them are located in the South, 16% in the Northeast, 16% in the North central area and 15% in the West. These statistics released in 1976 are supportive data that by ethnic origin and demographic area there is a concentration of underachievement in the South.

This is not a plea for band-aid treatment when major surgery is needed to reverse this deteriorating trend. This is not a plea for fish to abate immediate intellectual hunger, but rather it is a plea that you, who have it within your domain, provide us with the opportunity to teach our children the art of fishing so that they may have eternal intellectual security and have it more abundantly.

For the benefit of those who do not clearly understand, perhaps it should be pointed out that this is not an appeal for a handout. This is not a stop gap measure. For that reason the word EMERGENCY should be deleted from the act. The foreseeable future tells us this is an ongoing circumstance. It will be with us as long as we have impoverished children to educate, and as long as the behavioral attitudes of some of us attempt to denigrate the well being of the rest of us which will ultimately result in the mass demise of all of us. I petition you to seriously consider not only the continued funding of ESAA but to fund it at a level that is appropriate to meet the needs of our children so they may receive an equal opportunity to develop to their fullest potentialities.

The glory, nobility and beauty of the American concept of life and living requires that nothing as precious as the human spirit can ever be trounced upon when it is within the scope of our power and the tenets of our precepts to prevent the abrogation of human worth, human values, human rights... And this is true many, many times over when the good of all of our children is at stake.

Finally, representing that area, the South, that has produced the Martin Luther Kings, the Booker T. Washingtons, the Julian Bonds and Barbara Jordans, I wish to express my appreciation for having been afforded this opportunity and I personally appeal to each of you individually to consider fervently and prayerfully the future of our most precious possession...our children. Dare we do less?

A POSITION PAPER

RE: DIRECT ESAA GRANTS TO GRANTEES RATHER THAN BLOCK GRANTS TO STATES

Prepared by

Dr. Joseph P. Atkins, Assistant Superintendent
Jefferson County Public Schools
Louisville, Kentucky

For

Region IV ESAA Grantees Association
11 West Park Avenue
Savannah, Georgia 31401

Submitted to

The House Elementary, Secondary and
Vocational Education Subcommittee

June 15, 1977

Background Information

Title VII of Public Law 92-318 is known as the Emergency School Aid Act (ESAA). The purpose of this title is to provide financial assistance:

1. to meet the special needs incident to the elimination of minority group segregation and discrimination among students and faculty in elementary and secondary schools;
2. to encourage the voluntary elimination, reduction or prevention of minority group isolation in elementary and secondary schools with substantial portions of minority group students; and
3. to aid school children in overcoming the educational disadvantages of minority group isolation.

Since the inception of the Act, financial assistance has in fact been provided to help implement programs and activities to alleviate the needs/conditions stated above. The method by which this assistance has been accomplished is through direct, competitive grants to grantees based primarily upon demonstrated, documented needs. Many of these grants have been awarded to school districts and other organizations in the eight (8) states comprising USOE Region IV.

This paper represents the opinions of ESAA grantees in Region IV under the auspices of the Region IV Grantees Association.

Current Status/ESAA Funding

Each year ESAA funds are appropriated annually and allocated to the states on a formula basis, with the exception of the funds labeled discretionary and earmarked for special projects. The state allocations are handled by the nine (9) regional offices and grants are awarded directly to grantees on a competitive basis within each region. All grants are awarded on the basis of objective criteria which applies to all regions uniformly. The major criteria for funding is the applicant's need as defined by the purposes of the Act. The criteria also includes statistical points which are accumulated by factors such as number and percentage of minorities and reduction of racial isolation. And, of course, the quality of the proposed activities is a factor.

Awarding of grants from discretionary funds is handled similarly except that the competition is on a national level. Additionally, more specific criteria are developed which address special needs and conditions.

Current Concerns/ESAA Funding

A number of states have expressed concerns through their State Boards of Education and/or their congressmen and senators that ESAA funds should be awarded as block grants to states and administered at that level. It appears that part of the rationale for that position is that education is a function of the state and that the state should have primary responsibility for the distribution of ESAA funds to local school districts and agencies. Further, there is some indication that there are feelings that many local districts are not afforded a fair chance to receive ESAA funds.

Region IV ESAA Grantees Association's Position/ESAA Funding

The Association, which represents approximately 214 school districts and agencies in eight states, has had adequate opportunity to assess and evaluate the effectiveness of ESAA projects during the past several years. Also, the Association has been involved in and closely associated with the procedures for acquiring ESAA grants.

It is the position of the Association that the present funding procedures, though not perfect, are preferable to block grants to the states for the following reasons:

1. Political and other pressures in the interest of equal distribution of ESAA funds could negate the objective criteria for distribution which is based on need.

2. The Emergency School Assistance Act was not designed to distribute funds equally among school systems and agencies within the state.

3. Additional money would be consumed from the appropriation for administrative costs at the state level, thereby reducing the amount of programmatic money available to address local needs.

4. ESAA funds are provided for the purpose of assisting, school districts with special needs incident to desegregation. It is evident that all school systems do not share these needs uniformly.

5. Finally, there is little evidence that State Departments of Education have been optimally involved in or concerned about problems incident to desegregation at the local school district level.

Therefore, we strongly recommend that the present system of distribution of ESAA funds be retained in future legislation, incorporating changes deemed necessary for its improvement.

Emergency School Aid Act, Title VII of P.L. 92-318
South Pike County Consolidated School District
Magnolia, Mississippi

and

Proposal for a Three Year Funding Cycle

presented to

United States Congress
House of Representatives
Education and Labor Committee

by

Seth O. Dillon, Jr.
Superintendent

The educational and programmatic design of any ESAA project begins with a student needs analysis. This survey is conducted by faculty and staff of the school district relative to the needs of the children in each school. These needs are compiled on a scheduled basis and programmatic activities of the project are directed toward specific needs that exists in the school district. These specific needs are discussed with parents, teachers, and secondary students. During this open consultation, priorities are evolved on a one, two, three basis. These priorities are presented to the multi-racial advisory committee for comment and concurrence.

The Act specifies the kinds of activities for which the school district can receive federal support under the basic and pilot grant program. These activities are previewed with the specific student needs in mind. One or more activities are selected and behavioral objectives, learning activities, and evaluative procedures are generated.

The ESAA pilot project in the South Pike Consolidated School District was designed around the reading needs of secondary school students. ESEA Title I funds are used in grades one through six for remedial reading instruction. The first priority from the student needs analysis was determined to be special remedial reading instruction in the secondary school. Presently selected students in the seventh through eleventh grades at the South Pike Junior and Senior High Schools receive remedial reading instruction. The overall objective for the project for the 1976-1977 school year was for eighty percent of the selected secondary students to demonstrate an increase equivalent to one grade level as measured by a standardized achievement test. A pre-test and a post-test was administered to measure the actual growth.

Remedial reading instruction was provided daily with emphasis on individualized activities that included diagnosis, prescriptive, developmental, and evaluative techniques.

Each selected student was given a diagnostic battery to determine his own word attack skills. Once the skills or lack of skills were determined, a reading specialist in conference with the student prescribed individualized activities that would reinforce the possessed skills and teach the needed skills. Whenever a student completed an activity, he was evaluated for mastery. Upon mastery he was given a higher level activity. The activities were on a sequential basis thus allowing a student to build on his strengths and proceed at his own rate.

In the evaluation of the project, the results of the comparison between the pre and post-test indicate that the overall objective was achieved. In addition to meeting the stated objective, further evaluation of the project indicated that individual students made significant gains not only in reading level but in how they felt about themselves. As they learned to master the skills in reading, the feelings about self began to increase. Students that came into the program with feelings of hostility finished the year with improved attitudes due to the results of the reading program and their own accomplishments.

The results of the evaluation was discussed with the multiracial advisory committee. The advisory committee was satisfied with the outcome of the project and has been influential in intrepreting the benifits of the ESAA project to the community.

PROPOSAL FOR A THREE-YEAR FUNDING CYCLE

At present each grantee must submit an application for Federal Assistance for one or more programs under the Emergency School Aid Act on a recurring yearly basis. The annual repetition of application does not land to any continuity of activities. For a project to be given ample opportunity to refine its assets and remove its limitations, the year to year constrants of funding should be removed. Student and parent acceptance of programs comes very slowly and a one year project does not allow enough time for trial and acceptance. In the preparation of an application each year, no reference may be made to any accomplishments or limitations that were discovered in the previous year's project. This is what is commonly referred to by grantee project authors as the "kiss of death." It would appear that any strengths that were discovered in a previous year's project would be the basis for building upon for the next year's project.

A three year funding cycle would allow individual students to enter at whatever time achievement scores indicated a need for remediation. Also it would allow instructional staff to determine not only weaknesses in student's skills but also to determine appropriate material best suited to his individual needs.

A lengthened funding cycle would allow for the design of material appropriate for a specific community and also allow for maximum utilization of printed and publicated materials.

The weakness of the one year project is obvious in the selection and purchases of instructional materials in that annual purchases do not lend themselves to sequence and continuity of instructional outcomes.

A nine month school year does not lend itself to a determination of individual progress as measured by criterion referenced tests.

The primary obstacle in any remedial program is changing student's attitudes from defeatism to a recognition of possible success. A three year funding cycle would lend itself to providing time necessary first to change attitudes, second to provide success in short term goals, and finally to build within the student a desire for achievement in long range goals.

Another difficulty that must be managed is in the employment of personnel. Experienced remediation teachers usually seek employment on a more pernament basis. The year to year uncertainity of employment makes it difficult to find experienced qualified teachers. A three year funding cycle would allow for a continuity in employment of key personnel. Team leaders of the faculty in the project could be expected to return to graduate school during the summer for further training in their respective areas of remediation. Selected students in the project could continue during the summer provided faculty were employed enabling them to make gains in their achievement that they could not regularly make. This summer program would allow students to maintain skills and advance to higher levels of achievement.

Teachers could be employed between school years to write instructional materials based on individual students and community needs.

A three year funding cycle would allow for quantity purchases of supplies. For instructional materials it would allow for purchase of sequential programs. In addition, it would allow for research into better application of purchased materials.

At present each yearly allocation must be consumed by the end of the project year. The funds of a new project are not usually available until just prior to the opening of school; therefore, the purchase of instructional material is delayed. Because of this delay, receipt of the materials is often two or three months in the school year. This delay often keeps the program from being initiated as the regular school program gets underway.

UNITED STATES HOUSE OF REPRESENTATIVES

Subcommittee

Elementary, Secondary and Vocational
Education

16 June 1977

Statement of

Thomas A. Bobo
Assistant Superintendent

Montgomery Public Schools
Box 1991
Montgomery, Alabama 36103

Concerning-Emergency School Aid Act

The Montgomery Public School System has been under Federal Court Order to desegregate its schools since 1966. Prior to that time the schools were completely segregated. Since 1966 the system has had various updating of the Court Order. In 1974-75 a majority of the schools were affected by their becoming completely desegregated or having desegregation increased. The implementation of the 1974-75 plan necessitated the relocation of approximately 9,100 students, causing problems of adjustment and of communication between home, school and community. A few schools were allowed to remain predominantly minority due to their geographic location and population density. However, even though the student population of these schools remained virtually unchanged, they were affected by the integration of the teaching staff.

The Montgomery Public School System made a concerted effort, and continues to do so, to overcome the problems associated with the Court ordered desegregation of schools. Despite its efforts, the problems have by no means been solved. Low reading achievement of students from racially isolated schools and/or communities continues to be an area of great concern for school administrators and parents. Cultural experiences which provide background for learning have been sadly neglected due to parents' lack of time and/or financial resources to provide them for these students. In an integration effort, teachers need more intense in-service training to adequately prepare them to work with the wide variety of learning needs of the various ethnic groups assigned to their classrooms. Since teacher integration accompanied student integration, there was also the need to work toward a program of effective communication to alleviate problems caused by a lack of information or misinterpretation of school facts and/or activities for parents and teachers.

Both the administration and teaching staff of the school system realized the necessity of additional funding to solve these problems. Due to the Federal Court Order and the unpopularity of integration during this time, it was extremely difficult to increase local effort revenue over the amount mandated by the State Constitution; therefore, the Montgomery Public School System has been forced to seek financial aid through other means.

The latest of these are those funds provided through the Emergency School Aid Act. It is my understanding that this Act has many facets, including (1) assisting minority group children to overcome the effects of prior deprivation in the area of reading, and (2) assisting school systems in the implementation of Court ordered desegregation plans.

The Montgomery Public School System applied for Emergency School Aid Act funds and is presently implementing a Basic and Pilot reading program funded through ESAA. We have been impressed by the academic and self-concept achievements of the students enrolled in the programs. We have also been encouraged by the acceptance of these programs by parents and other community members. This has been evidenced through their participation and involvement in project activities. Based on the positive outcomes brought about as a result of the participation in the ESAA programs, it is firmly believed that progress can be made toward closing the disparity gap which exists, in numerous instances, between the achievement levels of minority and non-minority children in our system.

The average reading levels of the 629 primary students participating in the Basic reading program were raised .8 years to 1.2 years between September, 1975 and May, 1976. The reading levels of the 407 participating intermediate students were raised 8 to 9 months during the eight-month period. These scores represent significant achievement for students who were well below grade level at the beginning of the school year. In the area of self-concept development, 72% of the primary students and 69% of the intermediate students showed positive growth, as revealed through a pre-post analysis of test scores on a nationally standardized self-concept measuring instrument.

In the ESAA Pilot reading program, in which the academic and self-concept achievements of participating students were compared to those made by students enrolled in a non-participating control school, the difference in reading achievement was significant.

Sixty-two percent of first grade students enrolled in the pilot reading program attained grade levels of 1.5 or above in reading achievement from September 1975 to May, 1976 as compared to only 36% of first graders achieving this level in the control school. An average of 76% of participating second graders made 1.0 years progress in reading, compared to only

34% who made this achievement in the control school. Seventy-one percent of third grade students progressed. Pilot project students also realized substantial gains in self-concept development over students enrolled in the control school.

Much of the student progress is a result of more intense in-service training for participating teachers, enlightenment of parents through their participation in study sessions, the assistance of aides to individual students and the guidance services of a school counselor.

The progress noted in this testimony is significant because even though the number of children treated represents only a small portion of the school population who are in need of these type programs, the achievement gains of the participating ESAA students attest to the fact that much progress can be made when finance is available to supplement local effort in providing:

(1) Adequate in-service training for instructional personnel to enhance their teaching skills and develop specific affective understandings and strategies so that they will be able to teach effectively and humanely.

(2) Additional support personnel to enhance individual student learning and growth in cognitive and affective areas.

(3) Personnel to assist in the interpretation of school policies and to build good school-community relations, and

(4) Adequate and relevant materials suited to the needs of minority children.

Our present ESAA Basic program consists of the following components:

I. Reading Achievement - designed to raise the reading level of project students through the employment of 28 reading aides to serve as tutors for eligible students who have special needs, and through the acquisition and use of necessary diagnostic-prescriptive materials.

II. Staff Development - designed to assist project staff in developing teaching strategies, designing materials and gaining understandings which will strengthen their instructional proficiency. This is done through providing summer and regular year in-service training to 200 teachers, 54 aides and 7 School-Community Resource Teachers involved in the program.

III. School-Community Resources

a. Provision of seven School-Community Resource Teachers to assist teachers, students, and parents in cognitive, affective and public relations type activities.

b. Provision of a Communications Supervision Team and the training and involvement of 52 Communications Team members (one from each school in the system) to actively work toward improving human relations and communications at their local school level.

This project includes a Coordinator who is responsible for coordinating and supervising the project activities.

The ESAA Pilot project consists of the following components:

I. Reading Achievement - for the purpose of raising students' reading levels through the provision of 26 reading aides to assist teachers and those project students who have specific reading needs, and through providing relevant materials, including those needed for diagnostic-prescriptive purposes.

II. Self-Concept Development - for the purpose of assisting students to develop more positive concepts of themselves, their family and others through providing relevant materials and the services of a trained guidance counselor.

III. Parent Education for Early Childhood - for the purpose of assisting parents in understanding and working with their preschool-aged children so that the children may gain experiences which will prepare them for learning when they enter school. This assistance is provided through the guidance of a Parent Education Leader.

IV. Staff Development - designed to assist teachers and aides in gaining skills necessary for effective teaching, the expense of which is absorbed by the ESAA Basic Project.

These two ESAA programs which are currently being operated are greatly needed by the Montgomery Public Schools as we strive toward providing an equal opportunity for each student to achieve to his greatest potential in our system. The termination of ESAA funds in Montgomery Public Schools would greatly affect our ability to do this. It will also mean that approximately 60 people will be unemployed. Furthermore, the minority children, who, according to ESAA guidelines and to our own knowledge are in the most need of assistance in order to function at their highest academic level in an integrated situation, would be the group most adversely affected if ESAA funding is allowed to be terminated.

It is the feeling of many people that if the Federal Courts dictate policy concerning public schools, then the Federal government should contribute substantially to their operation. We feel that ESAA funding allows for this contribution in some degree and we are of the strong opinion that it should not only be allowed to continue but that its budget should be stustantially increased over its present limit.

We strongly urge the Subcommittee on Elementary, Secondary and Vocational Education to give serious consideration to the continuous funding of the Emergency School Aid Act.

Thomas A. Bobo
Assistant Superintendent
Montgomery Public Schools
Montgomery, Alabama

Appendix 9

Office: 328-6571

19th Ward
Community
Association
Inc.

Honorable Carl Perkins

House of Representatives
Washington, D.C. 20515

Dear Honorable Perkins,

After attending some of the hearings of your subcommittee on Elementary, Secondary and Vocational Education which focused on the ESAA legislation, I would like to add this testimony to your records and for your consideration.

Based on my experience with the ESAA program in Rochester, New York, I am suggesting and asking for two major changes in the ESAA legislation in particular, and educational legislation in general.

1. We need legislation which calls for school districts to address the problem of BRIGHT FLIGHT from the city public schools.

2. We need educational legislation with a minimum funding period of three years with the possibility of renewal of the grant.

I have served on the Citizen's Advisory Committee to the ESAA program in Rochester and have worked with the program not as an employee of the city school district but as an employee of the 19th Ward Community Association, and as a resident of the inter-racial community it serves. The Association's committment to education is very high. The community knows that the quality of our schools has a major impact on the quality of life in our neighborhood and indeed, on its continued existance as an inter-racial community. Our elementary schools are integrated because our neighborhood is integrated. Our secondary schools are basically segregated because of the feeder pattern for them and because of a high rate of loss of secondary students from our neighborhood through transfers to other schools, family moves, and lack of incoming families with secondary school-age children.

The problems we face in our two secondary schools and in others in the city, is obscured if addressed in terms of white flight as it has been in the past.

I. THE PROBLEM OF BRIGHT FLIGHT from the public schools and within the district:

The thrust of the findings of the Coleman Report (Equality of Educational Opportunity, 1966) point to the socio-economic make-up of the schools as being a key in the achievement level of the students.

The U. S. Commission on Civil Rights report, Racial Isolation in the Public Schools, 1967, states,

> "The social class of a student's schoolmates - as measured by the economic circumstances and educational background of their families also strongly influences his achievement and attitudes. Regardless of his own family background, an individual student achieves better in schools where most of his fellow students are from advantaged

backgrounds than in schools where most of his fellow students are from disadvantaged backgrounds."

Up to now, legislation addressing this issue has assumed that WHITE could be equated with the advantaged backgrounds of students we needed to have in the schools. Concern has focused on white flight and attempts to stem that in districts with voluntary desegregation plans or court ordered plans. Indeed the focus on racial percentages within a district and a particular school has led many people to push for metropolitan desegregation. The focus on these percentages is obscuring what we need now to address and that is the loss of brighter students both white and black.

Programs to help desegregate our district have offered many options to black parents and students to attend either suburban schools or other schools which are majority white within the city school district. The effect of these programs has been to reduce the number of high achieving black students in the majority black schools. High achieving white students have also elected options to attend certain schools in the district or to leave the district.

The pool of white students available within the city schools for recruitment to magnet schools has a higher proportion of low achieving students than the total white student population within the city. With an emphasis placed on recruiting white students to predominantly black schools, we are missing the point of who really needs to be recruited and why. We can not afford to continue to equate high achieving with white and run programs which result in the loss of both black and white high achieving students from the very schools where they are needed to "equalize educational opportunity."

To illustrate this problem more graphically: this fall a computer print out was run of the math and reading scores from tests taken in the city schools last spring. The print out also listed those students who took the tests last spring in the city public schools but who are not enrolled in the public schools this fall.

This group of students who are no longer in the public schools was weighted heavily with students in the top percentiles in their test scores. These are white and black students.

This situation is an escalating one. Parents and students from educationally advantaged backgrounds are less and less willing to send their children to schools with an increasing proportion of low achieving students. Meanwhile these students are cut out of the contact they need with higher achieving students.

I am saying that this problem crosses racial lines and we are compounding it with legislation which doesn't recognize this fact of life. Legislation dealing with the impact of white flight id outdated for Rochester and many other cities. The impact of bright flight is what we must address.

The Rochester City School District has begun to address part of this problem by forming Gifted and Talented classes in several elementary schools and plans to continue those in the two secondary schools which serve our neighborhood. This program is in a Pilot Grant application for ESAA funds and WAS NOT FUNDED.for the 1977-78 school year. Yet the grant (ESAA Basic) which will recruit black students for majority white schools was funded. So once again the impact of the federal money through the ESAA program compounds the problem I have been talking about instead of addressing it.

2. THE NEED FOR THREE YEAR FUNDING CYCLES

Many of the educators testifying also asked for longer funding periods.

As a member of the Citizen's Advisory Committee to ESAA in our local school district, I am very aware of the great amount of time spent by the district putting a staff together, preparing for the program, evaluating the teachers and the program and winding down at the end of a program when continuing it is uncertain because the federal funds are uncertain.

School administrators responsible for funds for the schools must spend a high proportion of their time preparing, writing, and defending proposals. That is repeated each year. Much work time is invested in reading and evaluating the proposals. People employed to do this on regional and national levels could put in time disseminating programs that work and helping school districts write long range plans. They would be free to do that if they didn't have to read new proposals each year.

Working with the desegregation of schools takes time and long term planning. The one year funding cycle prevents this kind of planning and instead promotes the band-aid and patchwork approach. Much of the money is poorly used when programs cannot be continued which would make use of time and human resources already invested. This is a critical point. Money is only part of what we need. Making use of the investments built up through these programs is very important. It is very demoralizing for teachers, students, parents, and the taxpayers to see money given in ways that do not use investments already made. One year funding cycles are not wise use of our time or energy or money.

I would like to share some responses with you from the community and parent point of view. In our district the Basic ESAA grant was used last year to create a magnet school concept for four schools. The plan was to attract white students from all over the city and especially from the attendance area. A one year program cannot be used as a magnet. The potential attractive force in the magnet concept loses power when the program developed can only be assured of a one year existance. Parents in our neighborhood which I contacted to recruit to those "magnet" schools, told me they were not interested in programs on a one year basis. "If I start my child in that school because of the program and then the next year there are no funds for it, where will my child be?" Many of the parents were very skeptical of programs with federal funds attached. There is no way of knowing if the school can continue the program, they said.

Another interesting reaction was resentment on the part of many whites to being recruited and needed because of their skin color. For many of the whites, it was the first time they had been confronted with the attention placed on their skin color - something the blacks have faced for years.

In summary, I am asking for legislation which will address the problems of bright flight in our cities' schools and for legislation which will allow for longer range planning and better use of the monies which are spent.

Sincerely,

Oralee Beach
School and Community Communication
Project

copy to Honorable Conable
Honorable Quie

HUNTSVILLE CITY SCHOOLS
SHELBY COUNCE, SUPERINTENDENT
P.O. BOX 1256 Telephone: 205 539-2111
HUNTSVILLE, ALABAMA 35807

Bellamy Award *Centennial*

June 21, 1977

The Honorable Carl D. Perkins, Chairman
House Committee on Appropriations
House of Representatives
Committee on Education and Labor
B-346C Rayburn House Office Building
Washington, D. C. 20515

Dear Sir:

I attended the ESAA hearing before the House Sub-committee on Elementary, Secondary, and Vocational Education on June 14-15, 1977.

I would appreciate your support of the following items:

(a) *Increase the level of funding for State Apportionments from the FY '78 level of $187,050,000 to $250,000,000, since the effects of inflation and the increase in needs for funds to aid school desegregation has slowed the effectiveness of the effort to meet those needs over the past four years.*

(b) *Change the name of the Act to eliminate the word "emergency", since second and third generation problems of school desegregation cannot be resolved quickly or without adequate funding and continued effort to overcome the deep rooted disparities created by 300 years of racial discrimination.*

(c) *Retain non-profit organizations in the Act on the current percentage of funding since they have provided the essential grass roots and public support for desegregation.*

(d) *Continue direct grants to the grantees rather than changing to block grants to the states to avoid unfair competition.*

(e) *Institute three-year funding cycles for ESAA grants to avoid annual efforts that waste money, energy, and time.*

(f) Revise the statistical points system so that monies will be distributed more equally by letting large, medium and small systems compete in those categories rather than present basis, which discriminates against small systems.

I would be happy to supply any additional information you may desire.

Sincerely,

Mary Jane Caylor

Mary Jane Caylor
Director of Federal Programs

/sb

THE UNIVERSITY OF ALABAMA
UNIVERSITY, ALABAMA 35486

COLLEGE OF EDUCATION
AREA OF BEHAVIORAL STUDIES

June 13, 1977

The Honorable Members of the Subcommittee
on Elementary, Secondary, and Vocational Education
House of Representatives
Washington, D. C.

Dear Sirs:

The observations that follow are based upon evaluation work done by us during the past few years for The University on 25 ESAA projects in the South.

These observations support the following generalizations:

1. There is a demand on the part of parents and communities at large that the schools do a better job of teaching reading and arithmetic. This certainly is not the time to reduce federal funding of ESAA which is focusing its efforts on improving instruction in reading and arithmetic for low income minority group children.

2. Research data in education support the so-called cumulative deficit effect in learning. That is, the more a child falls behind, the more likely the child is to fall behind even further. Evaluation data indicate that this deficit effect is being reduced particularly in the earlier grades among target students in school systems with ESAA programs. The large discrepancy between majority and minority achievement would likely return if ESAA funding were reduced.

3. A spin-off of ESAA projects is that the funding has permitted attracting to the larger school systems bright young educators. We have been very much impressed by the quality of educational leadership that we have found in school districts such as Nashville, Tennessee, Jackson, Mississippi, Mobile, Alabama, Muscogee County, Georgia, and Greensboro, North Carolina.

4. The need for decentralization of the administration of ESAA is increasing. There are marked regional differences in the kinds of ESAA programs needed. Hence there should be regional differences in the nature of the ESAA programs offered. The increase in the number of bright young educators in leadership positions in our schools will help to make decentralization of administration work. These educational leaders should be utilized in planning and developing regional ESAA programs.

5. The success of ESAA programs varies tremendously from one school system to another and even within a larger school system. We have noted some excellent programs such as the one in Greensboro, North Carolina, in which there is outstanding improvement in the reading and arithmetic skills of ESAA target children. Such programs need to be studied and possibly emulated.

6. Some quite promising new approaches are being adopted in some school systems. Muscogee County, Georgia has developed during the past two years a computer-generated testing program. This program which will be set in operation next year promises to be of great benefit to ESAA teachers in their efforts to individualize instruction.

7. It appears to be timely for Congress to insist that the ESAA program place an increased emphasis on evaluation so that progress reports can be presented to the appropriate Congressional committee showing:

a. the number of children who have been helped to improve their reading and arithmetic skills by ESAA programs during the reporting period;

b. the extent of improvement in reading and arithmetic of the children treated;

c. the identification of schools and school districts that have superior programs as measured by improved reading and arithmetic skills;

d. the characteristics of the programs in successful schools and how these characteristics differ from those found in less successful programs;

e. the number of reports describing items 1-4 that were sent to school districts with ESAA programs so that they can benefit from the experiences of others.

We appreciate the opportunity to express our views to the members of the United States House of Representatives Subcommittee on Elementary, Secondary, and Vocational Education.

Sincerely,

M. Ray Loree

M. Ray Loree
Professor and Chairman
Programs in Educational Psychology
and Research

James E. McLean

James E. McLean
Associate Professor
Programs in Educational Psychology
and Research

L. H. FOUNTAIN
SECOND DISTRICT
NORTH CAROLINA

MEMBER:
COMMITTEE ON
GOVERNMENT OPERATIONS
SUBCOMMITTEES:
CHAIRMAN, INTERGOVERNMENTAL
RELATIONS AND HUMAN RESOURCES
ENVIRONMENT, ENERGY AND
NATURAL RESOURCES

COMMITTEE ON
INTERNATIONAL RELATIONS
SUBCOMMITTEES:
INTERNATIONAL SECURITY AND
SCIENTIFIC AFFAIRS
ASIAN AND PACIFIC AFFAIRS

Congress of the United States
House of Representatives
Washington, D.C. 20515

WASHINGTON OFFICE:
WALTER J. PITTMAN
ADMINISTRATIVE ASSISTANT
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EXECUTIVE ASSISTANT
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TELEPHONE: (202) 225-[illegible]

DISTRICT OFFICE:
MRS. PATRICIA GUPTON
SECRETARY
POST OFFICE BUILDING
TARBORO, NORTH CAROLINA 27886
TELEPHONE: (919) [illegible]

June 16, 1977

Hon. Carl D. Perkins
Chairman
Elementary, Secondary and
Vocational Education Subcommittee
B-346C Rayburn Building
Washington, D. C.

Dear Carl:

For the consideration of your Committee, enclosed is correspondence I have received from Mrs. Edith J. Jones regarding the ESAA program. I will appreciate your making Mrs. Jones' letter a part of the record of your hearings held June 14-16.

With thanks and kindest personal regards, I am

Sincerely,

L. H.

L. H. Fountain

LHF:gw

Enc.

2107 Cheltenham Boulevard
Greensboro, North Carolina 27407
June 9, 1977

The Honorable L. H. Fountain
U. S. House of Representatives
Washington, D. C. 20515

Dear Representative Fountain:

As the representative of the Parents Council on Education for the Greensboro Public Schools, I am writing you about the ESAA program. It has been brought to the attention of the Parents Council that hearings will be held in Washington June 14 - 16 in the Elementary and Secondary Education Sub-Committee concerning ESAA. The Parents Council endorses this program without reservation, and we would like your support in assuring its continuance and for an increase in its funding.

Enclosed is a fact sheet showing the success level of ESAA in Greensboro. Discussions with school personnel in the city reveal it is of such importance "it would be impossible to do without."

We would appreciate any assistance you may give us in this matter.

Sincerely,

Edith Jackson Jones

Edith Jackson Jones
Corresponding Secretary
Parents Council on Education

EJJ:bbh

Enclosure

ESAA FACTS AND FIGURES

1. In an eight month period last year, ESAA Math Lab students gained an average of 1.4 years. The average student is expected to gain .8 months in that period, and the lab students had only been averaging .54 months growth until last year in the regular classroom.

2. In an eight month period last year, ESAA Reading Lab students gained an average of 1.2 years. The average student is expected to gain .8 months in that period, and the lab students had only been averaging .39 months growth until last year in the regular classroom.

3. The math labs were remarkably successful last year. Of the sixteen ESAA labs in Greensboro, students in all but one elementary and two junior high labs gained an average of more than one year in mathematics in less than eight months.

4. The reading labs were remarkable successful last year. Of the fifteen ESAA labs in Greensboro, students in all but two elementary and two junior high labs gained an average of at least one year in reading in less than eight months, and every lab showed at least one month of growth for every month of instruction.

5. In a sample group of students chosen from the ESAA Reading and Math Labs last year and given a self-concept scale, 88% of the sample had improved their self concept.

6. The ESAA Math and Reading Lab program served over 2600 students last year in 16 math labs and 15 reading labs.

7. ESAA Home-School Coordinators established and maintained liaison services between the home, school, and community agencies on over 27% of the students in the Greensboro ESAA Math and Reading Labs.

8. Seventy-three percent of the students referred to ESAA Home-School Coordinators by the ESAA Reading and Math Lab teachers for inappropriate behavior showed a reduction of 50% or more in such incidents.

G. V. "SONNY" MONTGOMERY
[illegible] District, Mississippi

[illegible] Rayburn House Office Building
Area Code (202) [illegible]

DISTRICT OFFICE:
Meridian, Mississippi [illegible]
Area Code (601) [illegible]

Congress of the United States
House of Representatives
Washington, D.C. 20515

COMMITTEES:
ARMED SERVICES
VETERANS' AFFAIRS

ADMINISTRATIVE ASSISTANT
JACK VANCE

June 2, 1977

Honorable Carl Perkins, Chairman
Subcommittee on Elementary, Secondary
and Vocational Education
B346C Rayburn HOB
Washington, D. C. 20515

Dear Mr. Chairman:

It is my understanding that your subcommittee has planned hearings on the Emergency School Aid Act to be held this month.

I have received the enclosed correspondence relative to suggested changes in the ESAA program and I would appreciate your placing this letter in the files so that Ms. Crawley's suggestions can receive consideration during the upcoming hearings.

Sincerely,

GILLESPIE V. MONTGOMERY
Member of Congress

GVM/jkr

enclosure

PRVO
PATRICIA CRAWLEY
PROJECT DIRECTOR

Emergency School Aid Program
Pearl River Valley Opportunity, Inc.

TELEPHONE 736-9564 215 WEST SECOND STREET P. O. BOX 180
COLUMBIA, MISSISSIPPI 39429

May 9, 1977

Honorable G. V. "Sonny" Montgomery
Mississippi Representative
Congress of the United States
Washington, D. C.

Dear Congressman Montgomery:

It was my pleasure to have had the opportunity to meet you on your recent visit to the Marion County Courthouse some months back.

As one of your constituents in the 3rd district, I am turning to you once again to ask for your influence with your fellow colleagues in the House of Representatives. I understand that congressional hearings are scheduled for June on behalf of the Emergency School Aid Act. The Congress wants to know how effective ESAA has been and what changes are needed.

I think you are well aware that ESAA funded programs in Mississippi have been the means for many school districts to successfully deal with the integration situation. Non-profit organizations sponsoring ESAA programs have been instrumental in helping school districts as well as assisting at the community level with things in which schools could not become involved. By cooperating and working together, public schools and non-profit groups have been able to improve and expand on the total educational development of students.

In Columbia, Mississippi, we on the PRVO-ESAA staff have put many long, hard hours into designing a program of activities that citizens of the area have prioritized as being needed and wanted. Our working relationship with school officials, public agency officials, as well as our area students and parents, civic clubs and church groups, is commendable. Our program of services began back in 1971 and has been in operation since. Each year, selected personnel from the University of Southern Mississippi study, monitor and evaluate our program, and each year the evaluations indicate that our community is fortunate to be able to avail themselves of the unique and diverse benefits which we offer.

Despite the credability and proven success of already existing programs-each year, grantees are subjected to the tedious task of rewriting projects and submitting them to the Office of Education by a designated deadline; and competing with new applicants as well as other existing programs for project approval and funding. With only 8% of the appropriations being earmarked for non-profit organizations and the poorly used process of scoring proposals, the competition becomes very keen and sometimes disheartening. It seems very unfair that non-profit groups must be penalized by the stat points of a local school district; or that small school districts must compete with large school districts and have its score penalized by the same stat point procedure used. Aside from the quality points awarded an applicant based on rigid, established federal guidelines, an applicant's final score is further determined by the stat points earned by a local school district and derived at by computing the total student population, as well as other critical factors which weigh minority-non-minority student ratios.

My feeling, as well as the majority of other concerned grantees who are conscientiously committed to the task of offering quality programs, and who spend untold hours in the writing, development and subsequent administration of such programs, is that Congress act promptly to eliminate some of the idiosyncrasies now governing ESAA legislation. The following points out suggestions to you for study and action:

(1) The title "Emergency School Aid Act" needs to be changed, allowing the word "Emergency" to be dropped since it denotes a temporary crisis situation. Perhaps School Aid Impact or Desegregation Assistance programs would be more appropriate.

(2) Consideration and assurance of a specific number of points should be given to programs previously funded under ESAA, when such programs have demonstrated prior success and effective administration of previously funded programs.

(3) Programs should be funded at a three (3) year level rather than on a yearly basis. Much valuable staff time and productivity is lost or diminished by concentration of efforts spent in rewriting proposals annually.

(4) The stat point system currently used in grading applicants should be eliminated or redesigned so as to allow small districts and non-profit organizations supporting small districts a more equitable chance in the competition. Perhaps districts could be categorized according to size and competion could be confined within such established categories.

Finally, I urge you to influence other congressmen, senators and members of the House Labor HEW Subcommittee to 1) appropriate $50 million dollars more for general state allocations for ESAA for FY 1977 in a supplemental bill since many applications will not be funded otherwise; and 2) that $350 million dollars be appropriated for ESAA for FY '78, with the increases going into general state allocations rather than into nationally competitive and discretionary projects.

As a further point of information, I would like to remind you that our program as submitted for FY'77-'78 is presently in fiscal hold. I am awaiting word any day as to the approval or disapproval of future funding, knowing full well I have achieved a near-perfect score with regard to quality points, but am badly hurting in being able to measure up with stat points as compared with other competitive groups located elsewhere in the state. I think I am correct in admitting that some of my keenest competition will be directed at me from a first-time applicant, a new group located in the north-central area of Mississippi, who has not had a program heretofore. It seems ridiculous to think that a program operating successfully over the years, having sufficient equipment, supplies, facilities and staff already on hand can be discontinued by a new applicant who happens to capture more stat points and thereby ultimately manages to receive a higher overall score. This kind of situation should be discouraged; or the funding level allotted each state should be increased sufficiently to provide for all applicants whose programs show promise of merit. Oftentimes, applicants representing large districts who are assured of high stat points and who ask for considerable sums of money can quickly exhaust all allocations to a state by the funding of a few large projects. Yet, whether a district is large or small, all have similar problems and needs.

Hopefully, I have provided you with sufficient data to justify my request to you calling for your influence and support in dealing with ESAA legislative issues. I am well aware of your dedication to, and interest in the people and communities you represent, and feel confident you will give the situation as outlined your serious attention.

Respectfully,

Patricia Crawley

PATRICIA CRAWLEY
ESAA PROJECT DIRECTOR

PC:aog

ALBERT H. QUIE
1st District, Minnesota

COMMITTEES:
EDUCATION AND LABOR
STANDARDS OF OFFICIAL CONDUCT

WASHINGTON OFFICE:
2182 Rayburn House Office Building
202-225-2271

Congress of the United States
House of Representatives
Washington, D.C. 20515

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OLMSTED

DISTRICT OFFICES:
436 First National Bank Building
Rochester, Minnesota 55901
[illegible]

530 Federal Building
Fort Snelling
St. Paul, Minnesota 55111
[illegible]

June 1, 1977

Honorable Barber B. Conable, Jr.
2228 Rayburn House Office Building
Washington, D. C. 20515

Dear Barber:

Thank you for your recent letter and enclosed correspondence from Ms. Oralee Beach regarding the Emergency School Aid Act.

The Subcommittee on Elementary, Secondary and Vocational Education will be holding hearings on ESAA in mid-June. Because of the timeliness of your constituent's letter, I am taking the liberty of forwarding a copy to the Honorable Carl Perkins, Chairman of that Subcommittee, with a request that the Committee consider the issues raised by Ms. Beach during the oversight hearings and subsequent consideration of this program.

The point raised in Ms. Beach's letter is only one of a great many which have come to my attention regarding the conduct and administration as well as the legislative language of this program. I am certain that the Committee on Education and Labor will engage in extensive oversight of this Act during this Congress and will probably recommend substantial revisions of the program.

With kind regards, I remain

Sincerely yours,

ALBERT H. QUIE
Member of Congress

AHQ:cma

cc: /Honorable Carl Perkins

BARBER B. CONABLE, JR.
NEW YORK, 35TH DISTRICT

COMMITTEES:
WAYS AND MEANS
BUDGET
JOINT COMMITTEE ON
INTERNAL REVENUE TAXATION

Congreſs of the United States
House of Representatives
Washington, D.C. 20515

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100 STATE STREET
ROCHESTER, NEW YORK 14614
(716) 263-6700

May 23, 1977

Honorable Albert H. Quie
Ranking Minority Member
Education and Labor Committee
Room 2185
Rayburn House Office Building

Dear Al:

Enclosed is a copy of a letter received from Ms. Oralee Beach of 541 Thurston Road, Rochester, New York, who works for a community association in education projects. The 19th Ward Community Association has received ESAA funds and would like to continue with some projects funded this way.

Any information or comments you may be able to provide for use in responding to Ms. Beach would be most appreciated.

Very truly yours,

Barber B. Conable, Jr.

C/e

Enclosure

Office: 328-6571

19th Ward
Community
Association
Inc.

April 25, 1977

The Honorable Barber Conable
2228 Rayburn Building
Washington D.C. 20515

Dear Honorable Conable:

You were influential, I understand in obtaining Emergency School Aid Act (ESAA) funds for the Rochester City District for the 76-77 school year. I would like your advise on what procedure the Citizen's Advisory Committee should follow to get the legistation behind ESAA changed to enhance its chances of actually accomplishing its objective.

I have served on the Advisory Committee this year and been part of the monitoring subcommittee. I work for the 19th Ward Community Association as a school liason person. As a result I have had a good deal of contact with the ESAA program in our schools. I am convinced that the length of funding-one year, is very detrimental to the objectives of the legislation which is to aid school districts with desegration of the schools and to reduce " the effects of minority isolation" in schools whose population is predominantly minority.

Could some of the members of the Citizen's Advisory Committee meet with you when you are next in Rochester or could you suggest the route we need to take in a letter?

Sincerely,

Oralee Beach

Oralee Beach
School and Community Communication
Project

Appendix 10

June 23, 1977

Dr. George Rhodes, Jr.
Mr. Jessie J. Jordan
Equal Educational Opportunity Programs
Office of Education
Washington, D.C.

Dear Dr. Rhodes and Mr. Jordan:

During the course of the Subcommittee hearing on the Emergency School Aid Act on June 14th, you were notified that we would be submitting additional questions to be answered for the record. Given the restraints of time, we were not able to pursue all of these questions at the hearing.

Therefore we would appreciate your responding to these questions as soon as possible, and no later than July 8th so that we can include them in our printed hearing record. The questions are attached to the letter.

Thank you very much.

Sincerely,

Carl D. Perkins
Chairman

CDP:Jp
Attachment

1. How long do you foresee that districts which have already desegregated will have a need for continued assistance? Do you feel that the second generation problems require less assistance than initial desegregation efforts? Do grants to a particular grantee generally increase or decrease over a period of years?

2. Do you feel that the strict requirements for receiving ESAA funds, particularly the OCR compliance review, may be discouraging districts who really need assistance from applying?

3. What priority is given to each of the three basic purposes of the Act? Can you estimate how much money is going toward each of these three purposes?

4. Do you feel it would be appropriate to amend the program so that districts in inner cities with a high degree of minority isolation and which either are not eligible for grants or have lost eligibility due to white migration could receive funds to mitigate the effects of this isolation and make their districts more attractive for voluntary desegregation?

5. As I understand from reviewing the criteria by which applications are judged, the relative wealth of the school district is not taken into consideration. Is this correct, and are there instances where districts which might be able to support a large percentage of activities such as those funded by ESAA out of their own resources are receiving grants?

6. What are the most significant problems linked to desegregation? How are these problems different in the case of voluntary and court-ordered desegregation plans?

7. What sort of activities are presently being supported by non-profit organizations? How do they differ from NPO activities undertaken in the early years of the program?

7. (Cont.) Do you feel that the set aside for NPO's is sufficient?

8. Could you supply for the record a list of Title IV technical assistance centers with a brief description of what each does? What coordination is there between these centers and the OE regional offices?

9. In the last fiscal year, what percentage of ESAA money allocated on the State apportionment formula was reallocated to another State?

10. What sort of cooperation is there with the Title I program people to make sure there is no overlap in the groups served by the two programs?

11. P.L. 94-482 extends the life of the National Advisory Council on Equality of Educational Opportunity. How much contact is there between the advisory council and the regions? What services of functions do you see the advisory council performing?

12. Is there sufficient staff to carry out the responsibility of the regional offices in giving technical assistance to local educational agencies in writing proposals?

13. NIE is engaged in research related to desegregation. Are their efforts coordinated with your office?

14. What dissemination is made of programs funded under the pilot project section.

15. What grants have been made under the new authorizations for magnet schools, pairing of schools and neutral site schools in P.L. 94-482. To whom have the grants been made and for what activities?

16. Under OE regulations, is it possible that schools not engaged in the desegregation process in a district could receive assistance while schools which are involved might not?

17. How much data and information is kept in Washington? What kind of data is available only in the regions?

18. Do you have any general views on whether the legislation places too many limitations on the administration of the program and on whether the regulations or practices of your office create too many obstacles to have an effective administration of the program?

Response From Dr. George Rhodes and Mr. Jesse Jordan to Letter From Congressman Perkins Dated June 23, 1977

1. While the length of time assistance is needed varies depending on local conditions and the extent of desegregation undertaken, we feel that five years of support represents a reasonable period for the district to overcome problems which result from desegregation. In general, second generation problems, such as resegregation and excessive student suspensions, do require less assistance than that needed during initial desegregation efforts, when large scale reassignment of children and, in some instances, the high emotional pitch of the community, may require large scale aid. This should lead to decreasing grant size over the years, but, in practice, have not done so, due partially to the state allocation formula, which maintains dollars in states even when no new desegregation is taking place, and partially to inflation, which has used up in increased cost, any reductions in program which might have occurred.

2. We have no evidence whatsoever of this. Further, as Mr. Tatel stated in his testimony, very few districts who do apply are ultimately unable to achieve compliance.

3. We do not give priority to any one purpose at the expense of another. In addition, the third purpose, that of overcoming the adverse educational effects of minority group isolations does not stand alone, but is also a part of assisting desegregation and encouraging voluntary efforts to reduce minority group isolation. This is so because one of the prime problems districts face in desegregation is the disparity of educational achievement between minority and nonminority group students.

Because of the interweaving of purpose three with the first two, I cannot provide figures of amounts spent to achieve each purpose. However, we do know that $31,920,088 was spent in FY 76 for Pilot Projects, which are exclusively directed at the third purpose.

Attached is information showing fund distribution for FY 76 for all program categories.

TABLE 1-A. TOTAL ESAA FY 1976 OBLIGATION BY PROGRAM CATEGORY

Program Category	Amount Requested	Amount Obligated	Percentage of Demand Funded	States Served	Total Applications	Total Awards	Percentage of Applications Funded	Average Award
c Grants	$298,611,080	$140,032,618*	46.9	47	589	468	79.5%	$299,215
t Projects	82,048,942	31,920,088**	38.9	36	251	179	71.3	178,325
Grants	59,202,467	17,197,362	29.0	45	401	215	53.6	79,988
gual Grants	28,765,136	9,148,450***	31.8	8	82	32	39.0	285,889
rojects	45,369,193	8,465,870	18.6	7	~~50~~ 51	7	~~14.0~~ 13.7	1,209,410
al Projects	[illegible] ~~[illegible]~~	36,151,990	[illegible] ~~[illegible]~~	36*****	~~100~~ 108	74	~~[illegible]~~ 68.5	488,540
ation	N/A	2,150,000	N/A	N/A	N/A	2	N/A	1,075,000
otal	[illegible] ~~[illegible]~~	265,066,358	40.2% ~~[illegible]~~	(Includes 47 States & 5 Jurisdictions other than States)	1,482	977	65.9	250,836

* Includes $4,083,095 transferred from discretionary grant program to Basic Grants.

Includes ~~[illegible]~~ [illegible] transferred from discretionary grant program to Pilot Projects held under contingency obligation in relation to the Buffalo court suit.

Includes $548,450 transferred from discretionary grant program to Bilingual Grants.

Includes $2,015,870 transferred from discretionary grant program to ETV Category.

District of Columbia, Puerto Rico, Guam, Virgin Islands, America Samoa and Trust Territories of the Pacific Islands have been counted as States .

TABLE 1-C. TOTAL ESAA FY 1976 OBLIGATION BY STATE AND PROGRAM CATEGORY

STATE	Basic	Pilot	NPO	Bilingual	ETV	Special Projects	Evaluation	No. of Awards	Total
1. Alabama	$ 6,550,737	$ 1,180,390	$ 369,943	-	-	$ 669,162	-	47	$ 8,770,232
2. Alaska	163,722	-	46,001	-	-	-	-	2	209,723
3. Arizona	1,111,282	455,336	254,071	-	-	-	-	6	1,820,689
4. Arkansas	1,770,549	480,842	207,731	-	-	100,000	-	22	2,559,122
5. California	19,730,169	3,904,022	2,258,198	$ 568,450	$ 3,165,870	816,088	$ 2,130,000	76	31,580,797
6. Colorado	1,587,627	355,046	179,838	717,262	-	175,754	-	22	3,015,527
7. Connecticut	1,110,533	334,146	144,350	-	250,000	413,481	-	13	2,252,510
8. Delaware	469,794	116,798	51,346	-	-	-	-	8	660,429
9. D. C.	2,003,129	586,189	252,277	-	-	193,000	-	5	3,034,595
10. Florida	6,797,227	1,561,775	717,908	2,083,863	250,000	278,984	-	29	11,689,757
11. Georgia	5,872,656	1,506,676	669,952	-	-	197,986	-	48	8,074,876
12. Hawaii	1,235,732	408,210	220,826	407,832	-	-	-	10	2,272,600
13. Idaho	191,967	-	22,944	-	-	-	-	2	214,911
14. Illinois	5,249,616	380,618	939,626	-	-	216,600	-	21	6,786,460
15. Indiana	1,494,841	-	231,722	-	-	-	-	6	1,726,563
16. Iowa	136,409	-	32,508	-	-	-	-	7	168,917
17. Kansas	720,100	-	63,658	-	-	-	-	6	783,758
18. Kentucky	1,081,998	288,478	126,626	-	-	3,583,143	-	15	5,080,245
19. Louisiana	5,603,729	309,067	622,126	523,807	-	187,420	-	66	7,246,149
20. Maine	-	-	-	-	-	-	-	-	-
21. Maryland	3,072,112	-	391,263	-	-	269,789	-	12	3,733,164
22. Massachusetts	1,138,598	250,979	136,167	539,627	2,250,000	5,525,967	-	12	9,841,338
23. Michigan	6,840,553	1,339,871	579,862	-	-	4,884,809	-	26	13,644,080
24. Minnesota	437,848	-	50,529	-	-	80,000	-	6	568,377
25. Mississippi	6,232,063	1,132,384	489,206	-	-	-	-	58	7,853,653
26. Missouri	2,329,937	624,036	259,590	-	-	3,516,779	-	16	6,730,342
27. Montana	241,593	33,365	28,425	-	-	-	-	7	303,383
28. Nebraska	343,362	75,084	41,060	-	-	708,573	-	6	1,168,079
29. Nevada	169,526	-	36,962	-	-	-	-	2	206,488
30. New Hampshire	-	-	-	-	-	-	-	-	-
31. New Jersey	3,511,918	1,233,495	561,526	-	-	100,000	-	17	5,406,939
32. New Mexico	2,110,208	471,697	252,342	-	-	100,000	-	35	2,934,247
33. New York	13,981,408	3,370,066	1,671,918	1,466,568	2,300,000	3,295,182	-	45	26,583,142
34. North Carolina	5,850,659	1,494,378	645,677	-	-	-	-	39	7,990,714
35. North Dakota	158,753	-	18,718	-	-	-	-	4	177,471
36. Ohio	3,031,310	673,911	336,733	-	-	635,711	-	16	4,677,665
37. Oklahoma	1,278,448	381,602	164,857	-	-	100,000	-	33	1,924,907
38. Oregon	386,014	-	36,160	-	-	-	-	2	422,174
39. Pennsylvania	3,217,077	1,074,852	545,068	-	-	93,100	-	18	4,930,097
40. Rhode Island	-	-	-	-	-	-	-	-	-
41. South Carolina	6,206,162	1,073,975	461,970	-	-	290,146	-	30	8,032,252
42. South Dakota	257,240	68,266	28,686	-	-	-	-	4	354,192
43. Tennessee	2,812,150	669,593	339,437	-	-	-	-	18	3,821,180
44. Texas	15,566,376	3,656,626	1,764,526	2,953,638	-	3,739,052	-	160	27,550,319
45. Utah	374,558	75,700	61,335	-	-	256,968	-	7	768,561
46. Vermont	-	-	-	-	-	-	-	-	-
47. Virginia	6,735,188	1,081,893	667,396	-	250,000	87,000	-	40	8,821,477
48. Washington	1,212,970	259,927	109,634	-	-	-	-	7	1,582,531
49. West Virginia	348,807	-	-	-	-	58,309	-	5	407,116
50. Wisconsin	856,093	131,123	-	-	-	5,409,724	-	3	6,396,940
51. Wyoming	152,391	62,192	17,966	-	-	-	-	7	232,549
52. American Samoa	-	-	-	-	-	360,503	-	1	360,503
53. Guam	-	-	-	-	-	385,858	-	1	385,858
54. Puerto Rico	-	-	-	-	-	731,166	-	1	731,166
55. Trust Territory	-	-	-	-	-	287,835	-	1	287,835
56. Virgin Islands	-	-	-	-	-	626,310	-	1	626,310
TOTAL	140,032,618	31,920,088	32,197,362	9,168,430	8,465,870	36,151,990	2,130,000	877	263,066,358
	(1)	(2)	(3)	(4)	(5)	(6)			(7)

(1) Includes $4,083,093 transferred to Basic Grants from Discretionary Program Funds. Does not include $1,367,061 held in contingency due to Cincinnati court suit and $103,416 in unobligated funds to be returned to the U.S. Treasury.

(2) Includes $171,872 transferred to Pilot Projects from Discretionary Program Funds ($88,046 of this amount used for an FY 1975 Pilot Project funding obligation). Does not include $337,360 held in contingency due to Cincinnati court suit and $164,444 in unobligated funds to be returned to the U.S. Treasury.

(3) Does not include $2,638 in unobligated NPO Grant funds to be returned to the U.S. Treasury.

(4) Includes $568,450 transferred to Bilingual Grants from Discretionary Program Funds.

(5) Includes $2,013,870 transferred to ETV Projects from Discretionary Program Funds.

(6) Does not include $6,819,297 in Discretionary Program Funds transferred from Special Projects to other ESAA program categories and $778,723 in unobligated discretionary funds to be returned to the U.S. Treasury.

(7) Does not include a total $1,884,401 held in contingency due to Cincinnati court suit and a total $1,049,361 in unobligated ESAA funds to be returned to the U.S. Treasury.

4. I think there is merit in this idea, which really approaches an Urban Education Act which have been talked about for several years. It should be noted that such a provision would have little effect, however, without large scale financial assistance - perhaps more than total ESAA appropriations - and that assistance would be required for an extended period of time.

5. The relative wealth is not used, mainly because of the controversy surrounding adequate measure of it. Some districts, such as New York City would rate as wealthy districts under one possible measurement - property valuation per child - but no one would argue that the New York City Public schools are wealthy. The statute requires that local educational agencies, prior to receiving assistance, give assurance that they are unable to support ESAA activities from other sources. I think that few, if any, districts, would provide these activities if ESAA funds were unavailable.

6. There are several:

    1. As mentioned earlier, segregated education has often left minority with educational deficiencies which must be made up if true integration is to occur.
    2. Community support may be lacking, or the community may be hostile to desegregation, and seek to thwart it.
    3. School boards sometimes refuse to provide support and resources needed to desegregate successfully.
    4. School personnel are often ill equipped to deal with the new mix of children in schools, and need training and support.
    5. Curricula need to be revised to meet needs of all children in the schools, and properly reflect the contributions and interests of various racial groups.
    6. The community may be bitterly divided, particularly in court situations involving long struggles between proponents of and opponents to desegregation.

While the problems of voluntary and court ordered districts are similar, voluntary efforts may not have the bitterness attached to court ordered plans. In practice, also, voluntary efforts have not been on the scale of ordered desegregation, hence the need not so intense. In voluntary situations, it is necessary to obtain community support prior to adoption and implementation. In ordered situations, this takes place after the ccurt have made its determination.

7. NPOs run community information programs, rumor control centers, programs which seek to bring about community support, programs to provide more parental involvement in the schools, especially from groups whose past involvement has been low, and provide some special educational services for children, such as after school and evening tutorial centers. There has been little change in this program since ESAA was enacted.

   Since the only way to increase the setaside for NPOs would be to decrease that of other programs, I think, for the state apportioned program, it is sufficient. However, we do have a major problem in district funded under special projects usually those with the most severe desegregation needs. The Education Amendments provided significant new authorization for this program. However, Special Project funds may only be used to fund public agencies not private nonprofit. Provision should be made to make available NPO funds for these projects, and also for the new magnet school program.

8. Centers provide technical assistance to local education agencies, on request, in a broad range of means related to desegregation. These include curriculum planning; inservice training, especially in the human relations area," solicitation of community support; and student suspension problems. These centers are operated regionally. Regional offices award the contracts and monitors the activities of the centers.

9. FY 76 State Apportionment Basic - Pilot - NPO

National Apportionment	187,050,000
National Reallocation	10,740,761
Percentage	5.7%

10. First, the ESAA statute and the regulations require that the local educational agency provide information in its application as to how the ESAA project will be coordinated with other Federal projects - specifically with Titles I and VII, ESEA, and with Title IV of the Civil Rights Act. I and my staff meet periodically with Title I staff on matters of mutual interest, particularly recently, in the new "follow the child" provision in ESAA.

11. There is minimal contact between regional offices and the NACEEO.

12. Sufficient staff is available in the regional offices to provide technical assistance to local education agencies writing proposals. However, there are not sufficient funds to allow regional personnel to spend adequate time with propsective applicants while they are developing their proposals.

13. There is presently a task force which keeps each agency informed as to what research efforts are currently underway and what will be initiated in the future.

14. The dissemination of program information on pilot projects is for the most part, to districts within the same Region.

15. Grants have not been made of of this date (July 14, 1977.) Applications will be received in August 1977 and awards will be made prior to September 30, 1977.

16. Yes. A school district may apply for a Basic Grant and a Pilot Project Grant. It is possible for the application for a Basic award to result in non-funding while the Pilot award could be made. This would mean that schools where there was student reassignment would not be funded whereas the schools where there was no student reassignment would be funded.

17. The following data are available in Washington, in the Division of Program Development.

  1. Grant Award Documents
  2. Administrative Processing Forms
     a. Applications received/funds requested
     b. Project Review Forms
        Program
        Budget
     c. Ratings/Technical Review/Recommendation Forms

  3. Funding Analysis Data
        Number Applications
        Funds Requested
        Number Funded
        Funds Awarded
        etc.

Special Projects

All Information is available in Washington

1. Applications-Logs
2. Copies of Applications (case file)
3. Panel Rating comments
4. Decision Memo's
5. All Budget Data
6. Copies of Grant Awards or Contracts
7. Financial Status Reports and close-out data.

18. The regulations adequately track the legislation and therefor offers no substantive limitation to districts that desire to desegregate.

One serious limitation for NPO's, however, is that they are not able to be funded to support the efforts of the LEAs that receive out-of-cycle awards. (Emergency Special Projects) Administrative coordination through the regional offices of OCR and HEW is being reviewed for increased administrative effectiveness.

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July 18, 1977

Dr. George R. Rhodes, Jr.
Acting Associate Commissioner
Equal Educational Opportunity
Programs
Department of Health, Education,
and Welfare
Office of Education
Washington, D.C. 20202

Dear Dr. Rhodes:

After reviewing your responses to the questions on the Emergency School Aid Act included in my letter of June 29th, I feel that some of the questions were not fully answered, were misunderstood, or led to additional questions. In order that we might have as complete a hearing record as possible, I would appreciate it if you could give complete responses to the following questions, some of which have been reworded for purposes of clarification (the original question numbers have been retained):

3. How much money is going toward the first two basic purposes of the act, regardless of whether the funds are for a basic, pilot, NPO program, etc., and regardless of whether the third purpose of the act was also being addressed? I am especially interested in knowing approximately how much has been spent on activities geared toward the prevention of minority group isolation.

8. Could you provide for the record a list of Title IV technical assistance centers with a brief description of what each one does?

Dr. George R. Rhodes, Jr.
July 18, 1977
Page 2

11. What services or functions do you see the National Advisory Council performing?

14. What has been learned from the pilot projects? Why is the information gained from them disseminated only to districts within the same region?

16. If a district does receive a basic grant, must it spend all the funds received in schools which are actually integrating and/or in schools which are included in the desegregation plan which forms the basis for the school district's eligibility?

17. Is there any data, for any of the types of projects funded under the act, which are available only in the regional offices and not in Washington? If so, what sort of data?

We would appreciate receiving responses to these questions by July 22nd.

Sincerely,

Carl D. Perkins
Chairman

CDP:Jp

Response from Dr. George Rhodes to letter from Congressman Perkins dated July 18, 1977:

Q.3. How much money is going toward the first two basic purposes of the Act, regardless of whether the funds are for a basic, pilot, NPO program, etc., and regardless of whether the third purpose of the Act was also being addressed? I am especially interested in knowing approximately how much has been spent on activities geared toward the prevention of minority group isolation.

Ans. The first purpose of the Act is to provide financial assistance to meet special needs incident to the elimination of minority group segregation and discrimination among students and faculty. The majority of the funds or approximately $200 million serves this purpose. These funds are used by school districts in those schools directly affected by its desegregation plan. These districts design their proposals to solve problems incident to the implementation of a plan to eliminate or reduce minority group isolation.

The second purpose of the Act is to encourage the voluntary elimination, reduction, or prevention of minority group isolation. It is difficult to apply a specific dollar figure to this purpose. In the sense that more than half of the eligible districts applying for ESAA funds are implementing voluntary desegregation plans as opposed to court ordered desegregation, ESAA is encouraging voluntary plans. If it can be assumed that these districts implemented voluntary plans because of the availability of ESAA funds, then approximately half of the funds going to the first purpose could also be said to encourage voluntary desegregation. Many school districts develop and implement voluntary plans because they are faced with the possibility of court action or action required under Title VI of the Civil Rights Act or because of strong school system leadership, community pressures or a variety of other reasons. There is no data to show the exact motivation for the implementation of voluntary desegregation. It is true, however, that when a school district does develop a nonrequired plan, it immediately applies for ESAA funds. To this extent, approximately $100 million can be said to encourage voluntary desegregation.

No school district applied for ESAA that established eligibility through a plan designed purely to prevent minority group isolation from occurring. Practically all school districts that apply for basic and pilot grants contain prevention components or activities designed to achieve stability--to make the desegregation plan work. Quality education programs are usually designed or implemented to prevent students from leaving the school district thus preventing isolation from reoccurring. Practically every ESAA grant contains these kinds of prevention activities.

Q.8. Could you provide for the record a list of Title IV technical assistance centers with a brief description of what each one does?

Ans. The purpose of title IV General Assistance Centers is to provide technical assistance and training upon the request of any school district in the preparation, adoption, and implementation of plans for the desegregation of public schools.

There are two types of General Assistance Centers, The type A General Assistance Center (GAC-A) is designed to serve school districts in the area of discrimination based on race and sex. The type B General Assistance Center (GAC-B) serves school districts where there is discrimination based on national origin. There are 27 type A centers and 9 type B centers.

Upon the request of school districts, the GAC-A will assist districts to develop new instructional techniques, train in the use of new methods and materials, develop curricula, assess desegregation needs, develop techniques for school/community instruction, develop new administrative procedures, develop evaluation techniques, help in developing ESAA proposals, interpret Federal regulations, cope with crises, and help in the development of desegregation plans.

The GAC-B will help requesting school districts comply with the Lau v. Nichols Supreme Court mandate including assessment of specific needs, modification of administrative structure, revision and/or development of curriculum materials and methods, revision and/or development of staff training programs, and assist districts to deal with needs relative to non-English dominant students. A list of the GACs is attached.

Civil Rights Activities
GENERAL ASSISTANCE CENTERS - TYPE A
FY 76 (27)

Revised 11-15-76

ALABAMA

Dr. Paul Fanning, Director
The University of Alabama
P.O. Box 866509
University, Alabama 35486
(205) 384-5152

ALASKA

Mr. Robert Arnold, Director
Alaska Native Foundation
515 D Street
Anchorage, Alaska 99501
(907) 274-5638

ARKANSAS

Dr. A. B. Wetherington
Ouachita Baptist University
Arkansas Technical Assistance Center
Arkadelphia, Arkansas 71923
(501) 246-4531 Ext. 294

CALIFORNIA

Dr. Leonard Beckum
Far West Laboratory for
Educational Research & Development
1855 Folsom Street
San Francisco, California 94103
(415) 565-3079

CONNECTICUT

Mr. James Barnes
University of Hartford
New England Equal Educational Center
69 Lafayette Street
Hartford, Connecticut 06103
(203) 522-7166

FLORIDA

Dr. Gordon Foster, Director
University of Miami
School of Education
P.O. Box 248065
Coral Gables, Florida 33124
(305) 284-3213

GEORGIA

Dr. Morill M. Hall, Director
University of Georgia
Center for Educational Improvement
G-12 Aderhold Hall
Athens, Georgia 30602
(404) 542-1821

HAWAII

Dr. Melvin Ezer
University of Hawaii
College of Education
Department of Educational Foundation
2444 Dole Street
Honolulu, Hawaii 96822
(808) 948-7859/8658

ILLINOIS

Mr. David G. Henry, Project Director
National College of Education
Center for Multi-Cultural Education
180 North Wabash Avenue
Chicago, Illinois 60201
(312) 236-1773

INDIANA

Mr. Frank Aquila, Director
Indiana University Foundation
I.U.P.U.I.
902 North Meridian Street
Indianapolis, Indiana 46204
(317) 264-4628

LOUISIANA

Dr. Eldridge Gendron
Educational Resource Center
Alcee Fortier Hall, Room 312
Tulane University
New Orleans, Louisiana 70118
(504) 866-5427

MICHIGAN

Dr. Charles D. Moody, Sr., Director
Program for Educational Opportunity
University of Michigan
1046 School of Education
Ann Arbor, Michigan 48105
(313) 763-9910

MINNESOTA

Dr. George D. King
Project Director
Upper Midwest Tri-Racial Center
7900 Xerxes Avenue, South
Bloomington, Minnesota 55431
(612) 331-8990

MISSISSIPPI

Dr. Norvel Burkett, Director
Mississippi State University
Division of Continuing Education
Drawer NX
Mississippi State, Mississippi 39762
(601) 325-4030

MISSOURI

Dr. Charles Rankin
General Assistance Center
University of Missouri
408 Hitt Street
Columbia, Missouri 65201
(314) 882-6294

NEW MEXICO

Dr. Ernest Gurule
Regents of the University of New Mexico
The University of New Mexico
Albuquerque, New Mexico 87131
(505) 277-5706

NEW YORK

Mr. Warren Halliburton
Teachers College, Columbia University
Institute for Urban Minority Education
525 West 120th Street
New York, New York 10027
(212) 678-3350

NORTH CAROLINA

Dr. Clinton R. Downing, Director
East Caroline University
General Assistance Center
P.O. Box 342706
Greenville, North Carolina 27834
(919) 758-6704

OHIO

Dr. Robert Evans, Project Director
KEDS - General Assistance Center
Kent State University
301 Wright Hall
Kent, Ohio 44242
(216) 672-2828 or 672-2121

OKLAHOMA

Dr. Joe Garrison, Director
Consultative Center for EEO
University of Oklahoma
555 Constitution Avenue
Norman, Oklahoma 73069
(405) 325-1841

OREGON

Dr. Ralph T. Nelsen
School of Education
Portland State University
P.O. Box 07751
Portland, Oregon 97207
(503) 229-4624

PENNSYLVANIA

Dr. Ogle Duff, Director
General Assistant Center on School
Desegregation and Conflict
University of Pittsburgh
4029 Bigelow Boulevard
Pittsburgh, Pennsylvania 15260
(412) 624-5865

SOUTH CAROLINA

Dr. Richard Kemper, Director
University of South Carolina
College of Education
Columbia, South Carolina 29208
(803) 777-6513

TENNESSEE

Dr. Frederick P. Venditti, Director
224 Henson Hall
Educational Planning Center
University of Tennessee
Knoxville, Tennessee 37916
(615) 974-6638

TEXAS

Dr. Bennat Mullen, Director
Stephen F. Austin State University
Box 613018
Nacogdochen, Texas 75961
(713) 569-5307

UTAH

Mr. Richard Thomas
Weber State College
3750 Harrison Boulevard
Ogden, Utah 84408
(801) 399-6635 Ext. 481

VIRGINIA

Dr. Howard W. Allen, Director
Consultative Resource Center
University of Virginia
School of Education
Ruffner Hall, Emmet Street
Charlottesville, Virginia 22903
(804) 924-3707 or 3725

Revised [illegible]

GENERAL ASSISTANCE CENTER - TYPE B (LAU)

AREA A: Me., NH., Vt., Ma., RI., Ct., NY., NJ., PR., VI.

Dr. Charles Harrington, Director
Dr. Clara Velazquez, Assoc. Dir.
Bilingual GAC (Box 11)
Teachers College, Columbia Univ.
West 120th Street
New York, N.Y. 10027
(212) 678-3155

AREA B: Pa., De., Md., DC., Va., Fl., WVa., NC., SC., Ky., Tn., Ga., Al., Ms.

Dr. Gordon Foster, Director
Dr. Rosa Feinberg, Assoc. Dir.
University of Miami (LAU)
School of Education
P.O. Box 8065
Coral Gables, Fla., 33124
(305) 284-3213

AREA C: Oh., In., Il., Mi., Mn., Wi., Mo., Ks., La., Ne.

Dr. George Beloz, Director
Mr. A. Rexford Rorex, Assoc. Dir.
Chicago State University
95th St. at King Drive
Chicago, Illinois 60628
(312) 995-2363

AREA D: Tx., Ar., La.

Dr. Jose Cardenas, Exec. Dir.
Dr. Blandina Cardenas, Director
Intercultural Development
Research Association
5835 Callaghan, Suite 111
San Antonio, Texas 78228
(512) 684-8180

AREA E: Mt., ND., SD., WY., Co., Ut., Ok.

Mr. Bernie Martinez, Director
Coalition of Indian Controlled
School Boards
811 Lincoln, 6th Floor
Denver, Colorado 80203
(303) 837-8016

AREA F: NM., Az., Nv.

Dr. Ray Rodriguez, Director
University of New Mexico
School of Education - Lau Center
Albuquerque, New Mexico 87131
(505) 277 3062

AREA G: That part of Ca. south of the northern boundries of San Luis Obispo, Kern and San Bernardino Counties.

Dr. M. Reyes Mazon, Director
Mr. Leonard Fierro, Assoc. Dir.
Institute for Cultural Pluralism
San Diego State University
5402 College Avenue
San Diego, Ca. 92182
(714) 286-5193

AREA H: That part of Ca. not included in Area G.

Dr. B. Roberto Cruz, Execut. Dir.
Miss Patricia J. Nakano, Mgr.
BABEL (LAU) Center
2168 Shattuck Avenue
Berkeley, Ca., 94704
(415) 549-2860

AREA I: Wa., Or., Id., Ak., Hi., Gu., Trust Terr., Amer. Samoa.

Dr. Francisco Garcia, Director
Center for Bilingual Education
Lindsay Building
710 SW Second Avenue
Portland, Oregon 97204
(503) 248-6805

3. There are twenty-seven General Assistance Center (Type A). They offer a broad range of activities (both technical assistance and training), including in-service training, assistance in developing curricula and materials, assisting districts in needs assessment, and helping school districts with school/community relations.

General Assistance Centers (Type A) are most frequently located at colleges or universities and share no ties to state government. Desegregation-related technical assistance which GACs undertake, is not normally a university function. GACs operate as independent organizations rather than as extensions of their universities. GACs are capable of providing a broad range of services to a large number of school districts. The following are types of activities undertaken by GACs: Develop new instructional techniques; train in use of new methods and materials; develop curricula; help districts asses needs; develop techniques for school/community interaction; develop new administrative procedures; facilitate sharing of common experiences; develop evaluation techniques; assist in writing proposals; interpret federal guidelines; help districts cope with crises; assist in the development of desegregation plans; and assess new desegregation capabilities.

General Assistance Centers work with all levels of school system to promote change; they plan and target their activities to both the administrative and instructional areas of the system.

Nine General Assistance Centers (GAC-B, frequently called Lau Centers) have been funded to provide technical assistance to school districts to help them comply with the *Lau v. Nichols* mandate. School districts not in compliance with Title VI of the Civil Rights Act have been instructed to file voluntary plans that follow OCR guidelines. The mission of the Lau Centers is to assist, when requested by the school district, in resolving desegregation problems directly lrlated to English language deficiencies on non-English dominant minority group students. The scope of technical assistance is extremely broad, encompassing virtually any problem encountered by those who work with non-English dominant children at the K-12 level. All assistance provided is entirely free and is delivered in person at the location of the district or agency requesting it. The goal of the Centers' staff is to be responsive to the needs of local personnel as articulated by the personnel themselves. The GAC has no enforcement role. It is committed to helping local practitioners become self-sufficient in meeting the needs of non-English dominant students. The staff works primarily to provide advice and consultation, but may also conduct workshops and conferences for local personnel. The following types of technical assistance are provided: Assessment of specific needs of students or programs; modification of administrative structure and procedures; revision or development of curriculum materials and methods; revision or development of school/community programs; revision or development of staff training programs; assistance in development of Title VII ESEA or other funding proposals; compliance with Title VI of the Civil Rights Act of 1964; and other types of assistance relative to the needs of non-English dominant students as described by the requesting district or educational agency.

Q.11. What services or functions do you see the National Advisory Council performing?

Ans. The National Advisory Council on Equality of Educational Opportunity was established on January 30, 1973. It is a fifteen member Presidentially appointed council. Their functions are to advise the Assistant Secretary with respect to the operation of the Emergency School Aid Act; review the operation of the program with respect to its effectiveness in achieving its purpose and with respect to the Assistant Secretary's conduct in the administration of the program; and to submit, through the Secretary of Health, Education, and Welfare, to the Congress at least two interim reports and a final report.

The services of the Council make available alternative sources of public representation for recommending policy and contents of regulations. A major benefit of the Council has been that 15 persons have become more knowledgable about the Federal effort in Equal Educational Opportunity and are able to transmit this information and improved understanding to their circles of professional and personal contacts in the various geographic areas of the country from which they come.

Q.14. What has been learned from the pilot projects? Why is the information gained from them disseminated only to districts within the same region?

Ans. Pilot projects are designed exclusively to overcome the adverse effect of minority group isolation. Evaluation has shown that ESAA pilot funds have been focused on the right children.

The criteria for the evaluation of pilot projects gives additional points if the applicant can demonstrate that the project can be replicated in a similar school within the district. This information is available to any school district. However, it has been found that because unique situations develop during the desegregation process, pilot projects that are successful in one district cannot necessarily serve as an exact model for other districts.

Each district is required to do a needs assessment to document with hard data their needs and objectives. Then activities are designed to solve their problems and meet their needs. Merely handing out a model would defeat the purpose of the required local needs assessment process.

The very act of conducting a proper needs assessment is valuable to the district in overcoming the adverse effects of mincrity group isolation.

Q.16. If a district does receive a basic grant, must it spend all the funds received in schools which are actually integrating and/or in schools which are included in the desegregation plan which forms the basis for the school district's eligibility?

Ans. A basic grant may include activities in any school that is shown to have a need incident to the district's desegregation plan and that the school is affected by the plan under which the district established eligibility.

Q.17. Is there any data, for any of the types of projects funded under the Act, which are available only in the regional offices and not in Washington? If so, what sort of data?

Ans. The following information is maintained in each regional office for ESAA Basic, Pilot, Bilingual, NPO grants and Title IV SEA-A, GAC-A, Institutes and Title IV grants to LEAs:

(1) Administrative processing forms not required to be sent to Washington.

(2) Official case files containing up-to-date copies of all applications and attachments.

(3) Technical review forms including panel rating comments on all applications.

(4) Budget revisions of original grant award.

(5) Grantee financial status reports, close-out data and final reports.

(6) Monitoring reports including site review reports.

(7) Grantee quarterly program progress reports.

It is not a requirement that this information be duplicated in Washington. However, if this information is needed it can be obtained at a moment's notice.

Appendix 11

SOME THOUGHTS ON SECOND GENERATION SCHOOL DESEGREGATION PROBLEMS

An Address delivered by Fred Venditti, Director,
General Assistance Center, University of Tennessee
at The Carolina Desegregation Conference, Myrtle Beach, S.C.
May 17, 1977

I am going to discuss with you this morning second generation desegregation problems. My major reservation in dealing with this subject is simply a fear that I may spend a good deal of time saying the very obvious. That is, I am sure that most of you present in this audience are very well aware of so-called second generation desegregation problems and probably know as much if not more about them than I do myself. Having expressed this minor reservation, with as much professorial aplomb as I can muster, I shall now proceed to unburden on you some of my thoughts about this subject.

I believe it is probably appropriate in considering second generation desegregation problems to begin, however unoriginally, with a consideration of two terms that have been discussed at great length by people like ourselves. I think that those of us here are probably in substantial agreement with respect to the meaning of these terms. Nevertheless, I believe that we can profitably consider them briefly. The terms are desegregation and integration.

One of the most interesting personal exposures I ever had to a discussion of these terms occurred a good many years ago when I was acting as an expert witness in a school desegregation case. I was listening to the testimony of an expert employed by the defendant school system who was engaging in a kind of dialogue with the attorney for the plaintiffs, that is the attorney representing the individuals who were seeking to have schools desegregated in the particular system on trial. The exchange went something like this.

Expert for the defendants: "I believe that the proposals put forward in support of school desegregation are impractical. They would require too rapid action. Schools cannot be desegregated overnight and function as they should. School desegregation is a process that should be given a great deal of time."

Attorney for the plaintiffs: "Are you saying that you believe that school desegregation should be carried out only when the people who are going to be affected indicate that they are ready for desegregation to occur?"

Expert for the defendants: "Yes, I think this is what I am saying. Just because you have desegregation does not mean that you will have integration. Integration takes time."

Attorney for the plaintiffs: "What I understand you to say is that desegregation and integration are two different things, and that in your opinion simply having desegregation will not assure integration. May I ask you now, sir: Do you know of any instance in which there has been integration, or in which there might be integration, without desegregation coming first?"

The reply of the expert witness to this question was, of course, that obviously desegregation had to occur before there could be integration.

The point of this brief anecdote is merely that, if we believe in and want integration, we must first have desegregation. Therefore, even though we know that desegregation brings with it thorny problems, we have welcomed it; we have known for a long time that there is no easy road to integration.

For the purposes of our discussion here this morning I should first like to emphasize this fact of which we are all aware: There is, indeed, a great difference between desegregation and integration as we would define the terms. Obviously just mixing bodies, that is placing boys and girls of two or more races together in the same school or the same classrooms, will not assure that there will be integration. On the other hand, it is equally certain that without the process of desegregation - that essential mixing or blending of children of different races - there can never be integration.

What then is school integration as contrasted with school desegregation? I would suggest that integration has to do with the quality of interaction that occurs after the bodies have been mixed, after children of differing races have been assigned to the same schools and classrooms. I would say that school integration means that the quality of interaction among the students in the desegregated school or classroom is positive, that it is characterized by a kind of mutual understanding on the part of all the youngsters in the school setting, that it is characterized by a kind of mutual respect that all of the children have for one another, and that it is distinguished by a certain degree of willingness and interest on the part of all children in the situation to learn from each other. When we speak of first and second generation desegregation problems, I think we are really talking about the kinds of contrasting situations represented by the desegregated and integrated school.

I believe we might say that first generation desegregation problems are distinguished chiefly by their very obvious nature and are most notable for the hostile reaction of the white people in a given school system to the process of desegregation, that is to the assignment of boys and girls of different races to the same schools.

These first generation problems are not only obvious, they are often quite sensational and tragic in nature. They usually involve the harrassment of black children who are assigned to formerly all-white schools. Sometimes this harrassment may go so far as to actually place black children in real physical danger, and tragically some may be injured. Not infrequently, racist white adults react hatefully to the assignment of black students to desegregated schools. They jeer these children as they leave the buses to enter previously all-white schools and often actually interfere with the operation of the buses, sometimes stoning or otherwise attacking them.

Beyond this, during the period of desegregation, more or less violent actions take place in the community at large. There may be mass meetings which see hysterical or semi-hysterical individuals exhorting their peers to do something about the terrible calamity that is occurring. Unfortunately, these fanatics are in fact occasionally successful in persuading some in their audience that they should resort to the kind of violence just mentioned.

I suppose we could say in summation here, therefore, that first generation desegregation problems are most obvious because they involve negative and sometimes violent acts on the part of those whites who object most vociferously to the assignment of black and white boys and girls to the same schools. Furthermore, we might note that these problems are likely to emerge and plague a community particularly during the first months, perhaps even the first year of a desegregation program. It is only following the passage of this amount of time that second generation desegregation problems begin to develop, and these are different in nature from the first generation variety.

In my view, these are the problems that are indeed most challenging; these are the problems that in many ways are really most difficult to solve; but these are also the problems which we must solve if the promise of school desegregation is to be realized, the promise that all students, regardless of their race, will have truly equal educational opportunities in these United States of America.

I suspect that you might agree with me at this juncture, that as traumatic and disruptive as first generation problems may be, they are not nearly so difficult to resolve as are the second generation problems which I propose that we consider now in some detail.

As a means of doing this, let me describe in a general way the typical, majority-white desegregated secondary school. I select the secondary school for the subject of my remarks here, for I believe that the total gamut of second generation desegregation problems is usually more evident in the secondary school than in the elementary school. This is not to say that the elementary school is without such problems. I am merely limiting the scope of my discussion for reasons of expediency. You can make your own application of what I have to say about the secondary school to the elementary school.

The desegregated majority-white secondary school, first of all, is a place where the majority race dominates the life of the school. It establishes and maintains the social system and sets the intellectual climate, and the dress, values, and behavioral codes of the school. The members of this group are a part of the mainstream of life in the school and obtain substantial rewards in the form of privileges, prerogatives, status, and material symbols. By contrast, members of the minority group are outside the main stream and cut off from its benefits.

In this desegregated secondary school, consequently, there is a great deal of obvious voluntary segregation. In reaction to a situation in which they feel themselves to be considered interlopers, members of the minority group understandably must seek, and do seek, security and a sense of worth and identity through association with each other. Thus, in such a school one sees little bi-racial association. Minority- and majority-group members separate themselves rather conspicuously throughout the day. They eat apart in the cafeteria and socialize apart in the corridors before and after school and between classes. Typically they also tend to establish informal turf arrangements which eventuate in members of one race exclusively occupying a particular end of a hallway or a given section of the in-door commons area or outside campus.

In the desegregated school characterized by this kind of atmosphere, it has been my observation that predictable student complaints will be heard. Both majority- and minority-group students will complain about a double standard. The former - the whites - will maintain that standards of performance and behavior have been lowered for the benefit of the latter, that they, the minority-group students, are allowed to get by with all sorts of things. The minority-group students for their part will assert that far from being accommodated in any way, they are subjected to unreasonable standards of discipline and academic performance.

It has also been my observation - and you may question its validity - that in the type of desegregated school under discussion another kind of unsettling phenomenon is quite likely to occur to some degree: Despite the remarkably rigid racial separation the students maintain generally, there will be a modicum of inter-racial dating, principally between black boys and white girls. This deviation from the established social norm will not infrequently spark reactions, especially on the part of black girls, that can lead to significant disruptions.

In the desegregated school I am describing, the kinds of voluntary or deliberate racial segregation one observes operating among the students may unfortunately operate also among faculty members. Instead of modeling positive inter-racial association, teachers and administrators in the school may demonstrate an adult brand of voluntary separatism. The epitome of their behavior in this connection may be as extreme as the use of separate faculty lounges by majority and minority group staff members.

When it comes to the heart of an educational institution, its instructional program, the desegregated school I am discussing is experiencing tremendous difficulties and is falling far short of its educational aspirations. All of the pervasive instructional problems plaguing schools everywhere, whether desegregated or not, are compounded in the desegregated school. And this is the case for at least two obvious reasons. First, in many instances minority group students previously have had limited educational opportunities in their segregated or otherwise inferior schools. Second, the palpable tension, the inter-personal and inter-group hostility and the debilitating feelings of insecurity and fear permeating the school create a general atmosphere that is definitely not conducive to learning on the part of students of either the minority or majority group.

From the teachers' standpoint this means that all the inevitable problems associated with the teaching/learning process in the various subject matter areas - English, mathematics, social studies, etc. - are intensified. Therefore, in an effort to deal with this situation, the faculty of the desegregated school being described may well have opted for "ability grouping" based on test scores and grades. As a consequence, a kind of rigid tracking may be practiced which sees students arbitrarily channeled into college preparatory, or general, or career-oriented curricula. The inevitable by-product of this system is an extreme and unfortunate amount of resegregation of students in the classroom because of the disportionately large number of minority group students with low test scores and grades.

Now this phenomenon, the resegregation of students in the desegregated schools through ability grouping, brings me to an extremely important point I wish to make. And this is the point: Much of what is done or left undone in the desegregated school that makes it such an unhappy and unwholesome place, especially for minority-group students, is done or left undone inadvertently. That is, practices such as ability grouping may be initiated or retained for mindless or, paradoxically, even well-intentioned reasons, without deliberate intent to foster resegregation or penalize minority-group students. The perpetrators of such practices, as often as not, simply have not given thought to the probable consequences of the practices either prior to their implementation or thereafter. Said another way, incredibly, basically non-racist and even well-meaning faculties can be responsible for some of the most deplorable and unpleasant features of the desegregated school without being aware of their culpability.

With respect to another crucial dimension of the educational program, extra-class activities, the desegregated school I am talking about is once again markedly distinguishable in an unfortunate way. One finds that extra-class activities are largely the province of the majority-group students. Participation of minority-group students on athletic teams may present something of an exception, but even in this sphere there are likely to be anomalies. For example, basketball and track may have become sports dominated by blacks, but football and baseball teams may have remained largely white, and tennis, golf and swimming entirely so. The reasons for this skewed participation profile in the athletic realm are too subtle and complex to consider in depth within the bounds of time available this morning. The important point is that in our desegregated secondary school, overall, proportionately far more majority-group than minority-group students participate in extra-class activities. In this connection I should like to stress again the matter of inadvertency or mindlessness rather than, or as much as, deliberate intent as being the likely cause of the problem.

To illustrate, let us consider briefly a few areas of extra-class activities and some of the common inadvertent reasons for the exclusion of minority-group students from participation. Let us also keep in mind as we do so that many of the inadvertent reasons for exclusion that I shall suggest operate as much to exclude students on a socio-economic class basis as on a racial basis.

Let us turn first of all to activities related to the athletic program. Some of the reasons here for the exclusion of large numbers of minority group students are the following: standards for cheerleaders and majorettes which are often based on skill training given at paid clinics; selection procedures for cheerleaders and majorettes which operate so that majority-group members frequently make the critical choices; student purchased uniforms; student financed trips; symbols, yells, mascots, for example, "rebels"; arbitrary quota systems.

In the area of activities related to student government we find at play such factors as the following: methods of election, e.g., homeroom voting, school-wide election; eligibility requirements, e.g., grades, citizenship, faculty approval; arbitrary quota systems.

In the area of activities relating to school- or grade-wide social events we might note the following: negative attitudes of the general community and staff toward integrated dances, proms, and overnight trips and the expenses connected with such activities. Even the physical location of certain of these events, proms for example, may tend to exclude black students when the activities are conducted far from the black community - say at the country club.

With regard to activities related to academic and special interest groups we find yet another set of factors - again perhaps largely inadvertent - tending to exclude black students. These relate directly to the previous orientation and background of the children. In the desegregated secondary school we are considering, there may be an FFA chapter, Key Club or a Chess Club, but it is not likely that there will be a Soul Music or a Black Heritage Club. Furthermore, sponsor attitudes and selective recruitment procedures will operate to the further detriment of black students' participation in academic and special interest activities.

Given all of the features of the typical majority-white secondary school being described - and the sad litany of conditions found in this forlorn institution has not been recited fully - it is not surprising that we may find an alarmingly high suspension rate among black students. Having been arbitarily assigned to a school which was formerly attended by students of a single race or predominantly of a single race, and having been placed arbitrarily as a minority in classrooms with white students, and having been thrust into a school setting offering few opportunities for meaningful involvement and gratification, and having been subjected to certain of the harassments and intimidations mentioned earlier, black children may have begun to react in an agressive manner. They may not have simply submitted to their fate with abject docility. Instead, they may have begun to raise strong objections about their treatment or the way in which they perceive themselves to be treated. They may have made or be making demands upon school authorities and their teachers, behaving agressively toward their white classmates, and acting out their feelings in a variety of belligerant or rebellious ways that virtually assure their frequent suspension from the school premises. Thus, if they are not being subtly "pushed out" of the school in disproportinately large numbers as a result of an inappropriate instructional program and a stultifying extra-curriculum they are being openly ejected in disproportionately great numbers primarily because of their negative reactions to a bad situation.

I said a moment ago that low socio-economic class status should be noted as a penalizing factor in the type of school we are considering. That is, in this school, irrespective of their race, the less affluent boys and girls tend to be most short-changed. While this is true, I wish to stress that it would be a mistake to minimize the especially unfortunate plight of the black children. It should be remembered that most of these boys and girls live and have their being in a sub-culture that is qualitatively different in many important respects from the dominant white culture in our nation. It should not be forgotten that in the United States - even today - the very fact of "blackness" imposes on black children a set of conditions that is quite different from that which plays upon the most socially and economically underprivileged white child. The average black child is not only the victim of extreme economic impoverishment but also an individual who, because of his/her skin color, encounters almost daily in our larger society a plethora of derogatory attitudes and various forms of discrimination - some subtle, some blatant - not experienced by anyone other than blacks. Stigmatized as they are by their skin color, therefore, the black students in our majority-white desegregated school may live with smoldering though hidden resentment, if not hatred, toward the dominant white society. Or they may become openly and habitually agressive toward white people in general. Or they may become acutely defensive or sensitive and develop a highly negative self-image. All of this - this syndrome of predictable reaction to racism - exacerbates further the problems of black children in the school we are discussing.

In summary, this is what I have tried to say thus far: First, second generation desegregation problems, unlike first generation problems, are very often not obvious or spectacular. Hence, they are frequently not recognized and often go unnoticed by many people in the school and in the community. Unfortunately, this is particularly true of people in the position to do the most about them. A second and related point has been that second generation problems are as frequently the result of inadvertent actions and/or failures to act as they are the result of anything done deliberately to harm someone. In a very real sense, second generation problems are the consequences of sins of omission as often as they are the products or consequences of sins of commission. Accordingly, second generation desegregation problems are all the more difficult to address. A third point, and one related to those just made, has been that these problems, although not obvious, are extremely serious. They are so serious, in fact, that they can completely negate the positive possibilities of desegregation. This is to say, if second generation desegregation problems are not solved, they can make desegregation itself a futile process. They can literaly wipe out all of the positive benefits that should flow from desegregation.

In closing, I should like to make two final points. The first has to do with the kind of approach I feel must be taken in connection with the solution of second generation problems. The second relates to the special significance of second generation desegregation problems for those of us in the South who are directly engaged in conducting systematic programs designed to ameliorate and solve problems associated with school desegregation.

With respect to the first point, the best approach to resolving second generation problems, I believe we must recognize that it is the faculty of the desegregated school that must play the critical role in its transformation to an effective educational institution. It is with the faculty of the desegregated school, therefore, that the most direct efforts to produce positive change in schools must be made. In this connection, I firmly agree with two systematic observers of the desegregated school who have had this to say:

> Much emphasis has been placed on the undeniably important roles of community processes, economic conditions, leadership in the minority and majority communities, social history of the communities, and public policy. But education, effective or otherwise, takes place in the schools. If the academic achievements of students are to be increased, it will be through instruction and practice, not through community politics. If positive inter-racial experiences are to occur among students, they will occur in the interactions of the students themselves. It falls to people in the schools - teachers, principals, counselors, para-professionals - to organize the multi-dimensional activities that go into the educational process in a constant endeavor to make that process beneficial to students. Effective integration can be achieved by and only by people in the schools (1:2).

I believe all this to be true. Therefore, I also believe we must intensify our efforts to work more directly and more effectively - in more concentrated ways - with faculties of individual desegregated schools. General conferences, workshops, and job-alike sessions of various kinds should not be discontinued, of course, but I think we must move far beyond these - take dead-aim on specific desegregated schools and work intensively with the personnel staffing them so that they might make genuinely integrated education a reality. This will not happen, needless to say, without a great deal of very careful thinking, hard work, and leadership activity on the part of people like ourselves.

Now my final point: We should all be aware that nationally there is a great tendency to view problems connnected with race in the schools as having been solved in the South. There is a great inclination as the more spectacular and obvious first-generation problems already experienced in the South begin to erupt elsewhere in the country for people to say, "This is where we must focus our attention. It is in the North and in the West and in the Midwest that we must work. It is to these areas of the country that we must send funds to combat the problems that are arising." I believe that we all know what this means. I believe we are all aware that there is a great danger that essential resources needed to solve the very complex second generation problems that still plague us in our region of the country - and which will plague other regions of the country once first desegregation problems have been resolved - will be diverted from the South to other sections of the country. We have certainly seen this demonstrated by the way in which ESAA programs have been funded in recent months. We have also noted very definite attempts in the political arena to channel monies away from our own region to other areas of the country.

I hope it is clear from what I have said previously that I do not oppose - as I am sure you do not oppose - making resources available to assist with the solution of first generation desegregation problems wherever they may arise. These problems are certainly of the greatest importance and need very direct attention. My point is simply that we cannot afford to relax our efforts in our own region. We cannot afford to assume that the goal of school desegregation - genuine integrated schooling - will be attained simply because first-generation desegregation problems may largely be resolved. We must somehow convince the politicians; we must somehow convince school people; and we must somehow convince the citizenry at large that the really difficult task connected with the elimination of race-related problems in our schools begins after desegregation takes place, as we attempt to move toward an integrated situation.

Thomas Pettigrew has said,

> . . . the process of attaining integration - a process that's only now being studied in detail - must obviously be warm and human. . . It is not an easy process. We know how to make desegregation fail better than we know how to make it succeed, for all of us, black and white, are products of a society that did not prepare us for integration. Indeed, it prepared us . . . for quite the opposite. To succeed, we must overcome our training. This is the critical task for (desegregated schools), and, for that matter, it is the critical task for all of us and for all our institutions. We rightly celebrate Brown v. Board of Education - but let us do it soberly, for we failed Linda Brown. The question now is, will American society also fail her two children (2:144)?

It's safe to say, I think, that those of us here feel an obligation to work directly and effectively to avert the kind of failure of which Pettigrew speaks. The task in states like North and South Carolina is enormous. You have done and are doing truly praiseworthy things in your two states. An integrated American shall one day acknowledge how crucial were your past and present efforts. Until that happens, however, press on. The future is truly in your hands.

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[1] Forehand, Garlic A. and Marjorie Ragosta. A Handbook for Integrated Schooling. Princeton, N. J.: Education Testing Service, 1976.

[2] Pettigrew, Thomas. "The Cold Structural Inducements to Integration." The Urban Review, Vol 8, #2, Summer 1975, pp. 137-144.